

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN D. CERQUEIRA,

Plaintiff,

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AMERICAN AIRLINES, INC.,

Defendant.

CIVIL ACTION NO.: 05-11652 WGY

**DEFENDANT AMERICAN AIRLINES, INC.’S MOTION IN LIMINE TO
EXCLUDE TESTIMONY OF PLAINTIFF’S EXPERT, DOUGLAS LAIRD**

For the reasons set forth more fully herein, Defendant American Airlines, Inc. (“American”) moves in limine to exclude opinions that it anticipates plaintiff’s expert witness on aviation security, Douglas Laird, intends to offer at trial. To the extent that Mr. Laird is permitted to testify at trial, American also seeks to limit Mr. Laird’s testimony on certain other opinions.

I. MR. LAIRD'S OPINIONS SHOULD BE EXCLUDED FROM EVIDENCE BECAUSE THEY DO NOT MEET THE STANDARDS SET FORTH IN KUMHO TIRE.

First, some or all of Mr. Laird's opinions should be excluded from evidence because they fail to meet the standards for reliability set forth in those rules and under *Kumho Tire. Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 147 (1999). Specifically, Mr. Laird seeks to offer opinions regarding passenger security concerns at a U.S. flag carrier after September 11, 2001 where he has testified that he has had no involvement with the development of training, protocol or procedures regarding passenger security concerns since leaving Northwest Airlines in 1995.

At deposition, Mr. Laird testified:

“Q Subsequent to that meeting with representatives from the AFPA, do you recall any other circumstances in which you have been asked to comment on or address the issues of onboard passenger security?

A For who?

Q In your profession as a consultant for a U. S. flag carrier or related entity?

A I have not been -- I have not been consulting to any U. S. flag carriers on any of those issues post 9/11.”

Deposition of Douglas R. Laird, attached hereto as Exhibit 1, hereinafter “Laird Dep.” at 18:4-13.

In light of that testimony, Mr. Laird clearly has no knowledge that would assist the average juror in understanding the state of aviation security after September 11, 2001, and on the date of the incident in question.

Kumho Tire and its progeny require that experts offering testimony must provide information that is “relevant to the task at hand.” *Kumho Tire*, 526 U.S. at 141. Mr. Laird’s expert report and testimony make it clear that he cannot meet that evidentiary burden. Because Mr. Laird does not have any knowledge that would assist the jury in understanding the state of passenger security measures after September 11, 2001, he should not be permitted to offer opinions related to passenger security concerns on December 28, 2003, or indeed for any period of time subsequent to September 11, 2001. *Kumho Tire*, 526 U.S. at 141; F.R.E. 702 and 703.

Furthermore, any such opinions offered by Mr. Laird also rely in whole or in part on non-authoritative publications. Laird Dep. at 50:8-19; 51:25-52:13; 63:2-6; 66:21-24; 67:20-23; 70:20-25. Testimony predicated on theories or opinions not validated and accepted as authoritative within the relevant scientific or professional community should not be offered to the jury. F.R.E. 702(2); 703. Therefore, the opinions he intends to offer at trial are inherently unreliable and should be excluded from evidence. F.R.E. 702; F.R.E. 703.

II. MR. LAIRD’S CONCLUSION AS TO THE ULTIMATE ISSUE, WHETHER AMERICAN’S EMPLOYEES ENGAGED IN RACIAL PROFILING, MUST BE EXCLUDED FROM EVIDENCE.

Second, Mr. Laird intends to opine that plaintiff’s removal from flight 2237 on December 28, 2003 stemmed from racial profiling. However, Mr. Laird admits that another security professional may have reached a different conclusion on the same evidence. Laird Dep. at 125:12-16. In light of that admission, a jury would not be assisted in any way by hearing Mr. Laird’s opinions, and should be permitted to make its own evaluation of the evidence in question. F.R.E. 702. *See, e.g., Hoffmann v. Caterpillar, Inc.*, 368 F.3d 709, 714 (7th Cir. 2004); *Smith v. Colorado Interstate Gas Co.*, 794 F.Supp. 1035, 1044 (D.Colo. 1992) (“Gender and race discrimination issues are issues an average person can evaluate and understand without the assistance of an expert”); *Lipsett v. University of Puerto Rico*, 740 F.Supp. 921, 924-925 (D.P.R. 1990) (“...this subject does not lend itself to expert testimony because it deals with common occurrences that the jurors have knowledge of through their experiences in everyday life...”)(discussing sexual harassment claim). Moreover, Mr. Laird’s admission that another security professional could reach a different conclusion calls into question the reliability of the methodology and principles used by him in formulating his opinions. F.R.E. 702(3).

III. MR. LAIRD CANNOT TESTIFY REGARDING AMERICAN’S ALLEGED FAILURE TO FOLLOW PROCEDURES AND PROTOCOLS BECAUSE HE HAS NO KNOWLEDGE OF THOSE PROCEDURES AND PROTOCOLS AND NO KNOWLEDGE OF THE INDUSTRY STANDARDS REGARDING SUCH PROCEDURES AND PROTOCOLS FOR THE RELEVANT PERIOD OF TIME.

Third, Mr. Laird’s opinions regarding American’s alleged failure to follow appropriate protocols and procedures must be rejected where he testified that a) he has no knowledge of what AA’s protocols and procedures were on December 28, 2003 and b) he has had no involvement with the development of such protocols and procedures for a U.S. flag carrier since leaving

Northwest Airlines in 1995. Laird Dep. 18:4-13; 22:6-21; 54:23-55:7; 99:17-23; 109:13-15. Even if qualified as an expert, he cannot opine on issues for which an adequate evidentiary foundation has not been laid. *Casas Office Machines, Inc. v. Mita Copystar America, Inc. et al.*, 42 F.3d 668, 681 (1st Cir.1994), citing *Quinones-Pacheco v. American Airlines, Inc.*, 979 F.2d 1, 6 (1st Cir.1992); *Schubert v. Nissan Motor Corporation in U.S.A.*, 148 F.3d 25, 31 (1st Cir.1998); *Zenith Electronics Corp. v. WH-TV Broadcasting Corp.*, 395 F.3d 416, 417-18 (7th Cir.2005) (reliance on experience insufficient basis to sustain expert opinion); *Salas v. Carpenter*, 980 F.2d 299, 304-305 (5th Cir.1992) (opinion as to ultimate issue inadmissible without adequate factual foundation); *Wurtzel v. Starbucks Coffee*, 257 F.Supp.2d 520, 525-526 (E.D.N.Y. 2003) (where proposed opinions offered by expert do not fit facts of case, opinion is inadmissible), citing *Brooks v. Outboard Marine Corp.*, 234 F.3d 89, 92 (2nd Cir.2000) (holding that opinion of expert was inadmissible where expert had no knowledge of essential facts). His opinion as to whether American's employees failed to follow American's protocols and procedures on December 28, 2003 is worthless because he does not know what those policies and procedures were or even what the industry was doing in regard to such policies and procedures during the time period in question. See generally F.R.E. 702(1); *Apostol v. U.S.*, 838 F.2d 595, 599 (1st Cir.1988); and cases cited *supra*.

WHEREFORE, American respectfully requests that this Court exclude the testimony of Plaintiff's expert, Douglas R. Laird, according to the provisions set forth above.

Respectfully submitted,
AMERICAN AIRLINES, INC.
By its Attorneys,

Dated: November 20, 2006

/s/ Amy Cashore Mariani
Michael A. Fitzhugh, (BBO 169700)
Amy Cashore Mariani, (BBO #630160)
FITZHUGH, PARKER & ALVARO LLP
155 Federal Street, Suite 1700
Boston, MA 02110-1727
(617) 695-2330

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on November 20, 2006

/s/ Amy Cashore Mariani
Amy Cashore Mariani

CERTIFICATE OF CONFERENCE

I hereby certify that on November 14, 2006 at approximately 1:00 p.m., Attorney Kirkpatrick and I held a conference to discuss any issues brought by Plaintiff with regard to this submission. On November 15, 2006 at 4:08 p.m., I forwarded a courtesy copy of the instant motion via electronic mail to plaintiff's counsel, Michael Kirkpatrick for his consideration and have heard no further comments in this regard that would narrow the issues addressed herein.

/s/ Amy Cashore Mariani
Amy Cashore Mariani

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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF MASSACHUSETTS
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JOHN D. CERQUEIRA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case No.
	:	05-11652 WGY
AMERICAN AIRLINES, INC.,	:	
	:	
Defendants.	:	
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DEPOSITION OF
DOUGLAS R. LAIRD
TUESDAY, OCTOBER 10, 2006
RENO, NEVADA

Reported by: JANET MENGES, CCR #206, RPR, CP
California CCR # 5785
Transcription: ---- Computer ----
DIGITAL COURT REPORTING & VIDEO, 1111 FOREST, RENO, NEVADA
Telephone: (866) 954-0352

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866-721-0972

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Page 2	Page 4
<p>1 2 3 4 APPEARANCES 5 6 7 FOR THE PLAINTIFF: 8 PUBLIC CITIZEN LITIGATION GROUP 9 By: MICHAEL T. KIRKPATRICK 10 1600 20th Street, NW 11 Washington, DC 12 13 FOR THE DEFENDANTS: 14 FITZHUGH, PARKER & ALVARO 15 Attorneys at Law 16 By: AMY CASHORE MARIANI 17 155 Federal Street, suite 1700 18 Boston, Massachusetts 19 20 21 22 23 24 25</p>	<p>1 ATTORNEY'S NOTES/CORRECTIONS 2 PAGE LINE 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 3	Page 5
<p>1 2 3 INDEX 4 EXAMINATION BY PAGE 5 MS. MARIANI 6 6 EXHIBITS 7 1 - Laird & Associates, Inc. 5 8 2 - Annex 17 5 9 3 - President's Commission on Aviation Security 10 And Terrorism 5 11 4 - The 9/11 Commission Report 5 12 5 - Aviation and Airport Security 5 13 6 - The Naked Crowd 5 14 7 - The Culture of Fear 5 15 8 - America the Vulnerable 5 16 9 - How Safe are Our Skies 5 17 10 - Disinformation 5 18 11 - Regulation: Perception and Reality 5 19 12 - Protection, Security and Safeguards 5 20 13 - Grounding Terrorists 5 21 14 - Fighting Fraud on the Fly 5 22 15 - Airline Passenger Security Screening 5 23 16 - Laird's report 5 24 17 - Jesper/Laisen/DK 5 25 18 - Passenger Screening in No-Fly Zone 5 19 19 - Five Years After 9/11 5 20 20 - Random Security 5 21 21 - One Year Later: The Shaky State of Security 5 22 22 - Aviation Security Advisory Committee 5 23 23 - Police log 95 24 25</p>	<p>1 RENO, NEVADA, TUESDAY, OCTOBER 10, 2006, 9:35 A.M. 2 -oOo- 3 4 PURSUANT TO NOTICE, and on Tuesday, the 10th day of 5 October, 2006, at the hour of 9:35 a.m. of said day, at 6 the offices of Bonanza Reporting, 1111 Forest Street, 7 Reno, Nevada, before me, Janet Menges, a notary public, 8 personally appeared Douglas R. Laird. 9 -oOo- 10 11 (Exhibits 1 - 23 were marked.) 12 13 DOUGLAS R. LAIRD 14 having been duly sworn by the notary public, 15 was examined and testified as follows: 16 17 MS. MARIANI: Before we proceed, with respect 18 to stipulations I'm assuming we are reserving objections 19 as to form until the time of trial, reserve motions to 20 strike as well. 21 MR. KIRKPATRICK: Agreed. 22 MS. MARIANI: The witness will have 30 days to 23 read and sign and we can waive the notary requirement, 24 if that is acceptable. 25 MR. KIRKPATRICK: That's fine.</p>

2 (Pages 2 to 5)

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<p style="text-align: right;">Page 6</p> <p>1 EXAMINATION</p> <p>2 BY MS. MARIANI:</p> <p>3 Q Can you state your full name for the record,</p> <p>4 sir?</p> <p>5 A Douglas Robert Laird, Sr.</p> <p>6 Q My name is Amy Mariani and I represent American</p> <p>7 Airlines in litigation brought by John D. Cerqueira</p> <p>8 against American Airlines.</p> <p>9 Before we begin today, I will give you some of</p> <p>10 the basic ground rules that will help the court reporter</p> <p>11 to take down an accurate transcript. First of all, it's</p> <p>12 extremely important that you wait for me to complete my</p> <p>13 question before beginning your response so that the</p> <p>14 court reporter can accurately record what we are both</p> <p>15 saying.</p> <p>16 Second, if you do not understand my question,</p> <p>17 please let me know. I will be happy to rephrase it.</p> <p>18 Third, if you need to take a break at any time,</p> <p>19 please let me know. I will be happy to take a break for</p> <p>20 a few minutes once you have answered the question that</p> <p>21 is pending, and fourth, it's very important that all of</p> <p>22 your responses be verbal because the court reporter</p> <p>23 cannot take down gestures or head nods or things like</p> <p>24 that.</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 8</p> <p>1 life where they would rather not work, so I went back --</p> <p>2 We dissolved the company about two and a half years ago,</p> <p>3 and I went back to Laird and Associates, which had</p> <p>4 always been in existence. Basically even though I was</p> <p>5 one of the owners of BGI they paid Laird and Associates</p> <p>6 is how it worked. That company has always been in</p> <p>7 existence.</p> <p>8 What I have done since leaving Northwest most</p> <p>9 of my time was spent in helping leading edge technology</p> <p>10 merge into the security market. My first client was</p> <p>11 InVision, the company that makes the CAT Scan machines.</p> <p>12 We brought Chaup metal detectors to the United States,</p> <p>13 that sort of thing. I helped on the technical side,</p> <p>14 spent a lot of time with the FAA at the tech center and</p> <p>15 that sort of thing.</p> <p>16 Let's see, the other thing of note I think is</p> <p>17 at Northwest we were looking at computer tomography or</p> <p>18 the InVision, the thing that scans your luggage. We</p> <p>19 were looking at that in the early '90s and we needed a</p> <p>20 way to make it -- increase the throughput and that is</p> <p>21 how we developed what is known as CAPPS, and the reason</p> <p>22 we came up with CAPPS is that we could then tell the</p> <p>23 machine how many slices to do per bag and get the</p> <p>24 greater throughput. Taking it to the extreme, if you're</p> <p>25 a million miler you're probably not a terrorist and get</p>
<p style="text-align: right;">Page 7</p> <p>1 Q If you have any questions at any time, please</p> <p>2 let me know and I would be happy to respond to them.</p> <p>3 Could you describe for me briefly your</p> <p>4 professional background and qualifications, sir?</p> <p>5 A With regard to law enforcement and security</p> <p>6 issues, my career started with the Marine Corps. I was</p> <p>7 a captain in the Marine Corps. I was a brig officer,</p> <p>8 which is a little bit different side of law enforcement.</p> <p>9 Following that I was a special agent with the</p> <p>10 Office of Naval Intelligence. From there I went to Los</p> <p>11 Angeles Police Department, and then I did a 20 year</p> <p>12 career with the United States Secret Service, spent a</p> <p>13 lot of time in what is called Protective Intelligence,</p> <p>14 excuse the term, but profiling.</p> <p>15 After I left Northwest in June of 1995 and</p> <p>16 started my own company, Laird and Associates. A year</p> <p>17 later I merged my company with BGI with Ambassador</p> <p>18 Morris Busby and Ambassador Louis Guno and Larry</p> <p>19 Johnson. I was the aviation person. Ambassador Busby</p> <p>20 was the ambassador for counter terrorism for the United</p> <p>21 States. So he did the counter terrorism thing. I did</p> <p>22 the aviation thing. It was a nice mix. That is why</p> <p>23 they brought me into the company.</p> <p>24 Ambassadors Guno and Busby were both -- I think</p> <p>25 Bus about 70, Lou is 72. They both got to the point in</p>	<p style="text-align: right;">Page 9</p> <p>1 a better score than somebody who has never flown. That</p> <p>2 is how it works. It doesn't look for the bad guy, it</p> <p>3 looks for how well-known you are.</p> <p>4 I have dabbled in that sort of thing since '95.</p> <p>5 I have done a lot of work as a subject matter expert for</p> <p>6 Raycon, Lockheed, Galaxy, you name them. I have done</p> <p>7 them all and what that means is they get large</p> <p>8 government contracts, FAA contracts and they bring in</p> <p>9 people like me to help them with the technical issues.</p> <p>10 Q When you say technical issues to what are you</p> <p>11 referring without disclosing anything which is subject</p> <p>12 to a confidentiality agreement or --</p> <p>13 A Sure.</p> <p>14 Well, for example, we had a -- It's kind of</p> <p>15 hard to explain. We had a contract with the FAA pre</p> <p>16 9/11 to examine the use of computer tomography at</p> <p>17 existing airports. So the FAA paid us to look at 30</p> <p>18 airports around the world and because of my Northwest</p> <p>19 days I did -- You know, we had 30 airports in Asia and I</p> <p>20 went there and 12 in Europe, so I did Europe and Asia.</p> <p>21 So I, for example, surveyed the new Hong Kong airport on</p> <p>22 behalf of the FAA, not to say how they were screening</p> <p>23 passengers per se, but how did their technology, how did</p> <p>24 they implement their technology, and I would call myself</p> <p>25 the reality check with a room full of PhD engineer</p>

3 (Pages 6 to 9)

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<p style="text-align: right;">Page 10</p> <p>1 types. They might know this technology, but they don't 2 know operations. So I'm the reality check. 3 So that is the sort of thing. I have done 4 that -- You name it, I have done all of the big guys. 5 Q You testified that you joined Northwest after 6 20 years with the secret service. Was your experience 7 at Northwest the first experience you had in the 8 aviation industry? 9 A Depends what you mean by experience. I had 10 done surveys for the president and vice-president of 11 literally hundreds of airports throughout the world, but 12 I had never worked for an airline. 13 Q When you say you had done surveys of airports, 14 are you referring to the investigation of the technical 15 components that you have been discussing earlier such as 16 the screening capabilities? 17 A No, in my secret service days we don't screen 18 protectees. You put the president right on the 19 airplane. 20 No, what I was looking at was perimeter 21 security, security of the terminal, more of an 22 operational security. 23 Q So your experience in evaluating airports in 24 connection with your secret service work was in 25 connection with protective services detail for the</p>	<p style="text-align: right;">Page 12</p> <p>1 required every year to undergo continuing education to 2 get points and that sort of thing. 3 When you say education, I go to lectures and 4 I'm sure like you do in your career. There are things 5 that we do every year to make sure that we are qualified 6 to keep our certifications. 7 I have instructed. I have done a lot of 8 training, but I have not been to an aviation school, 9 quote unquote, if that is what you're asking. 10 Q As a Certified Protection Professional what 11 training, if any, do you receive that is specific to the 12 aviation industry? 13 A Most of the training -- Let me try to think how 14 to describe it. 15 ASIS International, the association has a 16 yearly convention somewhere in the United States. It 17 was just in San Diego actually and it's four days in 18 length and each day there is probably 15 or 20 courses 19 offered. Very rarely is there a specific aviation 20 course, although I in fact on, I think, either -- I 21 think three occasions since '95 I have actually done 22 courses at the ASIS International National Seminar in 23 aviation security issues, but I look at each day's 24 schedule and I go to those courses that have some 25 relevance to what I do.</p>
<p style="text-align: right;">Page 11</p> <p>1 president and vice-president and other dignitaries; is 2 that correct? 3 A Yes, that is a fair statement. 4 Q Is it also fair to say that you were not 5 involved in evaluating the security procedures at those 6 airports independent of the times when you were moving 7 the dignitaries through? 8 A That's correct. 9 Q I'm showing what you has been marked as 10 Exhibit 1 to your deposition, sir. 11 First of all, do you recognize that document? 12 A Yes, I do. 13 Q What is that document? 14 A It's an explanation of what I do, what my 15 company does. 16 Q Is it an accurate summary of your curriculum 17 vitae as of this point in time? 18 A Yes, it is. 19 Q Could you describe for me any education that 20 you have received beyond that which is reflected in 21 Exhibit 1? 22 A I'm a Certified Protection Professional under 23 the American Society of Industrial Security and I'm 24 required to maintain my certification. I had to pass 25 tests obviously to get the certification, but then I'm</p>	<p style="text-align: right;">Page 13</p> <p>1 Sometimes it's difficult because there is not a 2 lot of, what can I say. It's hard to find aviation 3 courses, put it that way. 4 Q You testified earlier that you had to pass 5 examinations to become a Certified Protection 6 Professional. Did any of those examinations involve 7 issues pertaining to aviation security? 8 A Yes, they did. 9 Q In what way? 10 A It's changed since I was certified. In the 11 time that I did it you took a general knowledge test of 12 the entire security industry. You also then had to 13 identify three subsets where you tested in those 14 specific areas. One of the areas that I selected, one 15 of the three that I selected was what was called 16 transportation. That included aviation as well as air, 17 sea and trains and I passed, of course. 18 Q Is there an accreditation for subspecialties 19 within the community of Certified Protection 20 Professionals? 21 A No, no. 22 When I said I did transportation as one of my 23 subsets, there was probably -- I'm guessing, 12 or 15 24 subsets that you could choose from. You had to test in 25 three and I -- because I was -- I thought I knew, I had</p>

4 (Pages 10 to 13)

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1 a pretty good knowledge of that subject area I chose
2 transportation.

3 Now, how did I prepare to pass the examination.
4 I took a 3-day class and they helped us understand the
5 process and then I probably read four or five books
6 relating to aviation, trucking, maritime so I could pass
7 the test.

8 Q Do you remember which books you read pertinent
9 to aviation?

10 A No, I mean this is 20 years ago. Whatever was
11 available at the time.

12 Q You testified earlier that you left Northwest
13 in 1995; is that correct?

14 A June of '95, yes.

15 Q Since June of '95 have you been employed as a
16 consultant or employee by a U. S. flag carrier?

17 A Yes.

18 Q In what capacity have you been employed?

19 A I really can't get into details, but I was --
20 right after TWA 800 I was hired by the board of
21 directors of TWA to do some work, but I signed
22 confidentiality agreements, but I went all over the
23 world and looked at all of their gateway operations
24 worldwide.

25 Q Since your involvement with TWA 800 have you

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1 been employed either as an employee or consultant by a
2 U. S. flag carrier?

3 A Yes.

4 Q Who next employed you as an employee or
5 consultant?

6 A U. S. Airways.

7 Q In what capacity, to the extent that you're
8 capable of testifying about that?

9 A They were having trouble at Orlando Airport
10 with throughput at the checkpoint, and I evaluated their
11 procedures and helped them through technology and policy
12 procedures improve the throughput.

13 Q When you say throughput at the checkpoints,
14 could you describe for the record what you mean?

15 A If you look at a checkpoint in an airport where
16 you're screened, if you understand the technology and
17 the placement of technology there are tremendous
18 improvements in throughput that can be obtained and that
19 is the sort of thing that I work on.

20 Q By throughput do you mean --

21 A The number of passengers -- the number of
22 people you can process per hour without a decrease in
23 security.

24 Q Okay.

25 Subsequent to working for U. S. Airways in

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1 their Orlando operation to improve their throughput,
2 have you worked for a U. S. flag carrier as an employee
3 or consultant?

4 A No, but I have interviewed many, many airline
5 employees at airports on FAA projects, but there I was
6 employed by Lockheed Martin kind of company to help the
7 FAA better understand the problem.

8 Q And again those problems were related to
9 throughput and technology issues; is that correct, if I
10 understand your previous testimony?

11 A Yes.

12 Q Can you describe approximately the time frame
13 that you worked with TWA on the flight 800 issues?

14 A It was immediately after 800 and probably for
15 eight or nine months.

16 Q What was the period of time during which you
17 worked with U. S. Air on their throughput issues in
18 Orlando?

19 A You know I don't -- I'm guessing '98 sometime.
20 How long was it for?

21 Q For approximately how long, yes, sir?

22 A I went down and spent a day and then wrote a
23 report.

24 Q Since leaving Northwest in 1995 have you had
25 any involvement in developing training with regard to

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1 passenger security, onboard passenger security issues?

2 A I have consulted with -- Yes, I have consulted
3 with -- I was hired by the -- It's the airline, it's the
4 flight attendant union for American Airlines. I can't
5 remember the exact title of that company or union.

6 Q When were you a consultant with the flight
7 attendant union of American Airlines?

8 A I was hired for a day to meet with them. They
9 came to Minneapolis and we discussed what training
10 American Airlines flight attendants could receive with
11 regard to what happened in 9/11, but again I was hired
12 by, I think it's called the Association of Professional
13 Flight Attendants. I was hired by them to talk with
14 them about what I thought would make sense.

15 Q Do you recall what information you imparted to
16 them on that day?

17 A They were very concerned with what to do in a
18 similar situation and they had been approached -- They
19 didn't say this, but by the questions they asked I'm
20 just concluding this that they were very serious about
21 training the flight attendants in hand-to-hand combat
22 situations.

23 My advice was it's a waste of time and I think
24 they did it anyway.

25 Q Besides this interaction with the AFPA in

5 (Pages 14 to 17)

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1 Minneapolis -- Do you recall approximately how long
 2 after 9/11 that was, by the way?
 3 A Within a month or two.
 4 Q Subsequent to that meeting with representatives
 5 from the AFPA, do you recall any other circumstances in
 6 which you have been asked to comment on or address the
 7 issues of onboard passenger security?
 8 A For who?
 9 Q In your profession as a consultant for a U. S.
 10 flag carrier or related entity?
 11 A I have not been -- I have not been consulting
 12 to any U. S. flag carriers on any of those issues post
 13 9/11.
 14 Q Prior to 9/11 did you consult with any U. S.
 15 flag carrier on those issues?
 16 A On which issues?
 17 Q On issues related to onboard passenger
 18 security?
 19 A I have consulted with various law firms, and I
 20 have a list, on similar issues none of which have gone
 21 to trial or deposition, but that I have, you know,
 22 discussed situations, two of which as I recall the law
 23 firm represented American Airlines actually and I helped
 24 them understand the issues.
 25 I had no contact with American Airlines. This

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1 was outside counsel. I think those cases -- I never
 2 know what happens. I think they were settled.
 3 Q Do you recall which law firms representing
 4 American Airlines you consulted with?
 5 A I can look in my notes.
 6 Q If you would that would be helpful.
 7 A I don't recall.
 8 Q Sure.
 9 A I know I have it here.
 10 I did work for Condon and Forsyth, New York
 11 City, representing American Airlines, United Airlines
 12 and 9/11 issues. Following 9/11 they paid me to help
 13 put together an expert witness team and I don't feel
 14 comfortable saying any more than that. They know who I
 15 am.
 16 I went to Lyon Beach and did some work with
 17 Ford, Walker, Haggarty and Behard regarding an inflight
 18 incident and they represented American Airlines and it
 19 was a disruptive passenger that was taken off of a
 20 flight.
 21 I'm sorry, are you asking about American or
 22 just airlines?
 23 Q American first and my next question will be
 24 with regard to other airlines.
 25 A I think those were the two Americans.

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1 Then I did work with Fulbright and Jawarski of
 2 Houston, Texas. They represent Continental. I think
 3 they are outside counsel. I'm sure they are.
 4 I have done work with Perry and Spann, which is
 5 an outside counsel for Southwest Airlines regarding the
 6 death -- the death of an inflight passenger representing
 7 Southwest.
 8 I have done work with Relman and Associates out
 9 of Washington, D.C. There I was on the plaintiff's
 10 side.
 11 I have done work with Silicone Valley Law Group
 12 out of San Jose and in that particular incident we
 13 represented the plaintiff.
 14 I have done, am doing work with Simpson,
 15 Thatcher and Bartlett out of New York. They are
 16 representing Argenbright in 9/11.
 17 I have done work for Zucker, Scout and
 18 Rasenberger, Washington, D.C. I did a presentation to
 19 their key corporate clients, top 100 corporations on
 20 aviation safety issues.
 21 I have done work with Speigel and McDermitt out
 22 of Washington, D.C. advising them on explosive trace
 23 detection research.
 24 That is about it.
 25 Q Any other representation of plaintiffs besides

Page 21

1 the Relman and Associates case, the Silicon Valley Law
 2 Group case and the instant case in which you have been
 3 involved?
 4 A Not that I recall. I don't think so, no.
 5 Q Could you describe for me briefly to the extent
 6 that you can under court order what the case involving
 7 Relman and Associates dealt with?
 8 A That was a case against Northwest Airlines and
 9 it involved the removal of a passenger.
 10 Q Prior to boarding or prior to --
 11 A Prior to takeoff, yes.
 12 Q And were there allegations that that removal
 13 was in some way discriminatory?
 14 A Yes.
 15 Q Do you happen to have the case name?
 16 A Sure.
 17 First name is Arshad. The last name is
 18 Chowdhury.
 19 Q Your work for the Silicon Valley Law Group,
 20 what did that entail to the extent you can disclose that
 21 information under court order?
 22 A The plaintiff was Esther Dazo, and I believe it
 23 involved theft at a checkpoint. The defendant in the
 24 case was Globe Aviation Services.
 25 Q Do you know if either of those two cases are

6 (Pages 18 to 21)

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<p style="text-align: right;">Page 22</p> <p>1 still pending?</p> <p>2 A I think they have all settled. I know they</p> <p>3 have settled. I don't know the dates. I just know that</p> <p>4 they settled.</p> <p>5 Q Okay.</p> <p>6 During the time that you were employed at</p> <p>7 Northwest were you involved in developing and</p> <p>8 implementing procedures for responding to onboard</p> <p>9 passenger security issues?</p> <p>10 A Yes.</p> <p>11 Q Subsequent to that time have you been involved</p> <p>12 in developing and implementing procedures for onboard</p> <p>13 passenger security issues?</p> <p>14 A Only to the degree that several days literally</p> <p>15 after 9/11 I was employed, retained by SAIC, Science</p> <p>16 Applications International Corporation, and went to</p> <p>17 Washington, D.C. and met with them and key officials of</p> <p>18 the Department of Transportation and FAA to outline a</p> <p>19 program to deploy, vastly expand the air marshal program</p> <p>20 and SAIC won the contract. I had no further</p> <p>21 involvement.</p> <p>22 Q No further involvement with the program or no</p> <p>23 further involvement in developing procedures and</p> <p>24 protocols for ongoing passenger security issues or both?</p> <p>25 A I'm getting lost.</p>	<p style="text-align: right;">Page 24</p> <p>1 or procedures with respect to onboard passenger safety</p> <p>2 security issues?</p> <p>3 A Yes, on the Ganda Airways project. We helped</p> <p>4 them design a program for inflight situations for their</p> <p>5 flight crews and also reviewed and made some</p> <p>6 modifications to their air marshal program.</p> <p>7 Q When was that, sir?</p> <p>8 A I think the spring of '97.</p> <p>9 Q Since the Ganda Airways project have you been</p> <p>10 involved in any other project in which you have</p> <p>11 personally worked on developing onboard policies and</p> <p>12 procedures relative to onboard passenger safety issues?</p> <p>13 A Onboard, no.</p> <p>14 Q You testified earlier that you have worked with</p> <p>15 the FAA in a number of instances pursuant to contracts</p> <p>16 with Lockheed Martin and other contractors.</p> <p>17 Have any of those contracts involved</p> <p>18 development of standards or regulations regarding</p> <p>19 onboard passenger security issues?</p> <p>20 A No.</p> <p>21 Q Since the TSA was created have you been hired</p> <p>22 by anyone affiliated with the TSA relative to developing</p> <p>23 policies and procedures in responding to onboard safety,</p> <p>24 passenger safety issues?</p> <p>25 A No, I have not.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q Right.</p> <p>2 Have you had any further involvement with SAIC</p> <p>3 with regard to the air marshal program?</p> <p>4 A No, we just helped them present their case and</p> <p>5 they won the contract to train the air marshals.</p> <p>6 You asked earlier about Northwest, I think.</p> <p>7 Q Yes, that's correct.</p> <p>8 A We had policies and procedures which I wrote or</p> <p>9 modified or some were in place, of course, before I got</p> <p>10 there, and we were required, I guess -- We did it</p> <p>11 anyway. I'm not sure we were required, but in the</p> <p>12 course of their initial pilot and flight attendant</p> <p>13 training, their syllabus, and also in their recurrent</p> <p>14 training. We did a recurrent training program for our</p> <p>15 10,000 flight attendants and 7500 pilots.</p> <p>16 I don't know what American does, but we did</p> <p>17 that by video because I couldn't talk to 10,000 flight</p> <p>18 attendants. So in their recurrent training they had to</p> <p>19 watch, you know, me pontificate about what had happened</p> <p>20 in the last year, this is what I did, what has happened</p> <p>21 in the last year and what that means for the future. So</p> <p>22 we did that, yes.</p> <p>23 Q Since 1995 other than your involvement with</p> <p>24 SAIC and the expanded air marshal program subsequent to</p> <p>25 9/11 have you been involved in developing any policies</p>	<p style="text-align: right;">Page 25</p> <p>1 Q Are you familiar with the FAA's mandates</p> <p>2 regarding the inflight security coordinator program?</p> <p>3 A Sure.</p> <p>4 Q When is the last time you reviewed those</p> <p>5 mandates?</p> <p>6 A In my Northwest days. I probably -- Yes. I</p> <p>7 can't relate that to Ganda, because -- All airlines of</p> <p>8 the world basically have the same policies and</p> <p>9 procedures as a result of ICAO Annex 17. So I reviewed</p> <p>10 theirs, but I didn't -- That is not from the FAA. That</p> <p>11 is from their -- similar document.</p> <p>12 Q In connection with the litigation filed by Mr.</p> <p>13 Cerqueira against American Airlines, what work have you</p> <p>14 performed to date, sir?</p> <p>15 A With regard to --</p> <p>16 Q This case, yes, sir.</p> <p>17 A I reviewed this file that I was sent and I</p> <p>18 thought these particular books had relevance, and then I</p> <p>19 reviewed the materials and wrote a report which you have</p> <p>20 a copy of.</p> <p>21 Q Any other work that you have performed in</p> <p>22 addition to what you have just described?</p> <p>23 A No.</p> <p>24 Q Have you been paid for your work performed to</p> <p>25 date?</p>

7 (Pages 22 to 25)

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<p style="text-align: right;">Page 26</p> <p>1 A Yes, I have.</p> <p>2 Q How have you been paid?</p> <p>3 A What do you mean how?</p> <p>4 Q Have you been paid by retainer or --</p> <p>5 A I sent them an invoice and they sent me a</p> <p>6 check.</p> <p>7 Q Do you know approximately how much you have</p> <p>8 billed on this case to date?</p> <p>9 A A little over \$4,000.</p> <p>10 Q Do you know approximately how much time you</p> <p>11 have spent on this case to date?</p> <p>12 A I can tell you exactly. It doesn't tell me.</p> <p>13 The fee is \$250 per hour. So divide that into \$4,084,</p> <p>14 if I remember.</p> <p>15 Q So you have billed approximately 4,000 -- a</p> <p>16 little over \$4,000 in connection with this case at a</p> <p>17 rate of \$250 an hour?</p> <p>18 A Yes.</p> <p>19 Q Sir, I'm showing you what has been marked as</p> <p>20 Exhibit 16 to your deposition. I have a copy for</p> <p>21 counsel, if I can find it.</p> <p>22 A Do you want this back?</p> <p>23 Q No, you may have that, sir. Actually let's put</p> <p>24 that in the middle.</p> <p>25 Is that a copy of the report that you just</p>	<p style="text-align: right;">Page 28</p> <p>1 Are the mandates of the FAA and now TSA more</p> <p>2 stringent than those set forth in Annex 17?</p> <p>3 A Stringent obviously is the key word.</p> <p>4 Again I can give you an example. Annex 17 says</p> <p>5 that you will screen all checked luggage. The United</p> <p>6 States, of course, would say that you use computer</p> <p>7 tomography to scan the luggage because that is the best</p> <p>8 way to do it. You're reaching nearly 100 percent,</p> <p>9 you're finding what you're looking for.</p> <p>10 You cannot -- The Gandas of the world, I will</p> <p>11 use that as an example, cannot afford CT, but they</p> <p>12 screen luggage, checked luggage. They screen it by</p> <p>13 literally taking it apart and looking at it.</p> <p>14 So when you say are we more stringent, it's</p> <p>15 hard to say. I think we do a better job, but we all --</p> <p>16 If you do not meet the requirements of Annex 17 you</p> <p>17 can't fly. So I'm not sure I have answered your</p> <p>18 question.</p> <p>19 Q Let me see if I can ask it differently.</p> <p>20 Does the TSA require more of U. S. flag</p> <p>21 carriers and those operating domestically within the</p> <p>22 United States than is required under Annex 17?</p> <p>23 A I think that is a fair statement, yes. I mean,</p> <p>24 certain people might argue otherwise, but I think we do</p> <p>25 a better job, yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 described, sir?</p> <p>2 A Yes, it is.</p> <p>3 Q In that report do you provide a listing of</p> <p>4 materials that you relied on in preparing your opinions?</p> <p>5 A Um-hum.</p> <p>6 Q Sir, you have to give a verbal response.</p> <p>7 A Yes, yes.</p> <p>8 Q Is the first item in that list the</p> <p>9 International Standards and Recommended Practices</p> <p>10 Security Annex 17, Fifth Edition?</p> <p>11 A Yes.</p> <p>12 Q Of what significant to your opinions is that</p> <p>13 document?</p> <p>14 A Annex 17 relates to international aviation, in</p> <p>15 other words going between countries, but basically it is</p> <p>16 too difficult to have different sets of rules totally</p> <p>17 different from domestic versus international. So it</p> <p>18 sets the baseline for aviation security worldwide in all</p> <p>19 aspects, not just security, but communications and you</p> <p>20 name it, but Annex 17, as you know, is security related.</p> <p>21 So it lays out policies and recommendations as to how to</p> <p>22 deal with incidents.</p> <p>23 Q You testified earlier that each country does</p> <p>24 things a little bit differently with respect to</p> <p>25 security.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q I'm showing you what has been marked as</p> <p>2 Exhibit 2 to your deposition, sir.</p> <p>3 A Okay.</p> <p>4 Q I apologize if this is in a form with which</p> <p>5 you're not familiar, but is this in fact the Annex 17 to</p> <p>6 which we have been referring?</p> <p>7 A This is the -- You have Annex 17 Security,</p> <p>8 Safeguarding, blah, blah, blah. This is basically an</p> <p>9 overview of it. This is the actual document here.</p> <p>10 Q If you turn a couple of pages further in that</p> <p>11 document, sir, is that in fact additional discussion of</p> <p>12 the standards?</p> <p>13 A I'm not sure where you are.</p> <p>14 Q I'm on the page beginning general concepts,</p> <p>15 direction, guidance and definitions?</p> <p>16 A Yes, I see it.</p> <p>17 Q Is that, in fact, additional information</p> <p>18 describing requirements of the convention and the</p> <p>19 purposes to the annexes?</p> <p>20 A As I see it here, this describes what the</p> <p>21 various annexes are and what they are purported to</p> <p>22 require, but it's not the detail that I'm -- that I</p> <p>23 refer to as Annex 17. This is like a preface.</p> <p>24 Q Let's turn to the detail that you have in the</p> <p>25 volume before you.</p>

8 (Pages 26 to 29)

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<p>1 Are there particular sections of the annex that 2 are relevant to your analysis in this case? 3 A In a general sense, part 1, chapter 3, 1-3-23, 4 section 3.8.22, aircraft crew members, section subset D 5 as in David, crew response to acts of unlawful 6 interference. What it says is that you must train your 7 people to deal with situations occurring on aircraft. 8 Q Anything else contained in Annex 17 upon which 9 you relied in preparing your report? 10 A No. 11 Q When were these standards prepared, sir? 12 A This is the sixth edition dated 2002. 13 Q Do you recall when the fifth edition referred 14 to in your report was prepared? 15 A Boy, that was many years earlier, yes. 16 They didn't -- I should preface this by saying 17 there are not radical changes. If you look at the fifth 18 edition versus the sixth, the section that I'm looking 19 at that are you required to train crew, that hasn't 20 changed. 21 Q Did you consult the sixth edition or the fifth 22 edition when you prepared your report? 23 A Actually I did both and I referenced the fifth 24 and I in reality should have referenced the sixth, but 25 if you put them side by side in that particular chapter,</p>	<p>1 A You gave me Exhibit 3 and it's the executive 2 summary, yes. 3 Q Is there a more complete version upon which you 4 relied in preparing your report in this case? 5 A I have the -- I have the complete, which is a 6 couple hundred pages report. This is just a summary. 7 Q Are there particular sections of this report 8 that were pertinent to your analysis in this case? 9 A Yes. 10 Q What sections were those, sir? 11 A You know, I was unable to find my copy of that. 12 I didn't have time to print it out online because it's a 13 couple hundred pages, but the reason I referred to it is 14 the basis for an awful lot that has happened since Pan 15 Am 103 having to do with how we screen passengers. 16 Q Can you describe for me, to the best of your 17 recollection -- 18 A I can print it out or your people can print it. 19 I just don't have it right this minute. 20 Q Can you describe to me what changes were 21 recommended and have been made since Pan Am 103 in that 22 report? 23 A What I was referring to from the President's 24 Commission regarding 103, there is a section there that 25 deals with the profiling of passengers.</p>
Page 31	Page 33
<p>1 paragraph you're going to find they are the same. 2 Q Did you in fact put them side by side and make 3 a comparison? 4 A Have I, no. I just know it. 5 Q Is the next item listed in your report, sir, 6 upon which you relied the report of the President's 7 Commission on Aviation Security and Terrorism? 8 A Um-hum. 9 Q You have to respond either affirmatively or no. 10 A I'm sorry, I lost you. 11 Q Is the next item listed on your report as being 12 significant to your opinions the report on the 13 President's Commission on Aviation Security and 14 Terrorism? 15 A Yes. 16 Q Dated 1990? 17 A Yes. 18 Q Showing you what has been marked as Exhibit 3 19 to your deposition. 20 Off the record. 21 (A discussion was held off the record.) 22 BY MS. MARIANI: 23 Q Is what has been marked as Exhibit 3 to your 24 deposition the report to which you're referring, sir, in 25 your report in this matter?</p>	<p>1 Q What do you recall about that section, sir? 2 A They say we have to do a better job of 3 identifying people that present threats. 4 Q Do you recall if they presented specific 5 recommendations as to how to identify passengers who 6 present with potential threats? 7 A No, they just said that we need to spend -- in 8 those days it was the FAA, that we need to spend more 9 money and do more research. It was pretty ambiguous. 10 Q In what way did that influence the opinions 11 that you rendered in this case, if at all? 12 A Profiling -- Everybody profiles one way or 13 another. We just call it various different things. 14 It's a way of winnowing down who you spend time 15 looking at and who you don't. I think it has relevance 16 to what we're looking at here today. It was also the 17 reason that in my days at Northwest we came up with 18 CAPPS. We had had some situations in Detroit. If you 19 Google me on the Detroit Free Press you see I made the 20 front page for quite a few days running because of our 21 profiling, quote unquote. 22 One of the reasons we came up with CAPPS is 23 there is a way to screen passengers using a politically 24 incorrect term of profiling where you do not use race or 25 ethnic background. CAPPS does not use any of those</p>

9 (Pages 30 to 33)

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<p style="text-align: right;">Page 34</p> <p>1 things, and I might add that that program that we 2 developed at Northwest known as CAPPS it became, 3 identified nine or ten, depending on how you read, nine 4 or ten of the hijackers on September 11th not using 5 ethnic background. 6 Q Have there been commissions established 7 subsequent to this commission in 1990 whose 8 recommendations and findings had any significance or 9 impact on your report in this case? 10 A Following -- Yes, referred to many times as the 11 Gore Commission following TWA 800 and they made similar 12 recommendations. 13 Most of these reports, it takes a long time for 14 the government to do things. They make the same 15 recommendations again and again. I didn't refer to 16 that, I don't think. I did not. 17 Q I believe the next item you reference in your 18 report is the 9/11 Commission Report; is that correct? 19 A Um-hum. 20 Q Is that yes, sir? 21 A Yes, I'm sorry. 22 Q I'm showing you what has been marked as 23 Exhibit 4 to your deposition. 24 A Yes. 25 Q My apologies to Attorney Kirkpatrick who will</p>	<p style="text-align: right;">Page 36</p> <p>1 want me to go into. 2 Q If you could briefly explain your answer that 3 would be helpful. 4 A I follow this sort of thing obviously. CAPPS 5 took what I would call commercially available 6 information from the PNR, Passenger Name Record, 7 information you provide when you buy a ticket and it 8 made a determination on how well we knew you, for lack 9 of a better term. 10 It was not trying to identify terrorists. What 11 it was trying to do was give you a number. That number 12 may be -- You may be a grandmother from Dubuque that has 13 never flown and you're 83 and you could get a really bad 14 number, and you could be a million miler and you would 15 get a really good number, but again we weren't trying to 16 identify terrorists. We were trying to identify -- The 17 original concept was giving you a number to tell the CT 18 machine how many slices to give to your checked bag. 19 Every bag is screened, don't get me wrong, but 20 depending on your score -- Every bag gets three slices, 21 but depending on your score you get 7, 9, 12, 15, that's 22 time. That was the whole concept. 23 Following 9/11 what the Commission, as I read 24 it, says you need to spend more time to refine that and 25 the rest has been covered in the press quite adequately,</p>
<p style="text-align: right;">Page 35</p> <p>1 have to take back, if he so chooses, a copy of the 9/11 2 Commission Report to Washington on his flight today, 3 since it's about two inches thick and about four pounds. 4 Off the record. 5 (A discussion was held off the record.) 6 BY MS. MARIANI: 7 Q Sir, to what extent did you rely on the 9/11 8 Commission Report in preparing your report? 9 A I make reference to page 393 in the book where 10 they are talking about CAPPS. 11 Q And of what significance was page 393 and the 12 references therein to CAPPS pertinent to your analysis? 13 A They talk about CAPPS and that time and money 14 obviously needs to be spent by TSA in refining the CAPPS 15 process of profiling passengers. 16 Q And is the section to which you're referring 17 the section that begins Recommendation, Improved Use of 18 no-fly and automatic selectee lists should not be 19 delayed while the argument about a successor to CAPPS 20 continues? 21 A Yes, yes. 22 Q What is your understanding of what has been 23 done in regard to this recommendation since the 9/11 24 Commission issued it? 25 A Very little. I don't know how much detail you</p>	<p style="text-align: right;">Page 37</p> <p>1 I think, and that was they came up with -- They keep 2 changing the names of it, but they came up with ways to 3 implement what they refer to as a watch list where 4 you're looking for names. 5 I have always felt, and this goes back to my 6 days in the secret service in the '70s when I was in 7 Washington in the intelligence division, protective 8 intelligence, that I think names are basically useless 9 because people simply change names and they get valid 10 passports issued in fake names. So I don't think -- I 11 have never been a fan of names, but following 9/11 there 12 was a hew and a cry, my opinion, by many, many agencies, 13 law enforcement intelligence that we have to look for 14 names and I think the rest is history. The whole thing 15 just bogged down in bureaucratic fighting. There were 16 some easy solutions and it got lost in bureaucracy of 17 all the entities that wanted a piece of the action. 18 So they didn't carry out, in my opinion, what 19 the Commission said they should do and that battle is 20 still being fought as is what now they are referring to 21 as the registered traveller. 22 Q Now, CAPPS you testified a few minutes ago 23 dealt with checked bags as opposed to passenger 24 screening; is that correct? 25 A No, CAPPS -- The computer processed the</p>

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1 information for every passenger.

2 Q But what it did --

3 A The concept of why we came up with CAPPS was
4 that we wanted to increase the throughput for checked
5 luggage, yes.

6 Q But when a passenger goes to a security
7 checkpoint after having already checked their luggage,
8 CAPPS doesn't influence in any way what happens when the
9 passenger goes through the security checkpoint, does it?

10 A It does not. It should, but it does not.

11 Every passenger going through the screening
12 checkpoint whether it's TSA today or FAA before is
13 treated exactly the same. Part of the concept that we
14 had, which was never implemented and then I left
15 Northwest, was to have the screener, whether it be FAA
16 or TSA, know what your score was as you came through the
17 process.

18 Q Of what significance would it be for that
19 screener to know your score?

20 A If you were what is termed a selectee or
21 overseas a high selectee you would want to do a much
22 more thorough search. There are different rules
23 domestically and internationally.

24 Internationally if you're flying a U. S. flag
25 and you're determined to be a high selectee, you get a

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1 very, very thorough search of your person and your hand
2 carried and your luggage. They dump everything. They
3 squeeze your tooth paste, the whole thing.

4 Internationally at Amsterdam or Frankfurt or
5 whatever then they physically escort you to the airplane
6 and put you on. They don't do that in the United
7 States.

8 So in a sense the regulators are talking out of
9 both sides of their mouths. I think it would be very
10 beneficial for the screeners today, the TSA screeners to
11 know what my classification was as I came through the
12 line.

13 Q Are you aware of what information is under
14 consideration to create that classification at the
15 present time?

16 A I don't have access to that. That is not
17 classified. It's security sensitive.

18 Q As of the time that you were involved in
19 developing CAPPS at Northwest, what information beyond
20 that obtained from the PNR did you consider to be
21 relevant in making determinations on screening
22 decisions?

23 A I'm not sure I understand. That is all we had,
24 so I'm --

25 Q If there is anything you could have added to

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1 CAPPS besides the information from the PNR, what would
2 it have been?

3 A One of the things that CAPPS early on was
4 capable of doing to some degree was checking some names
5 against watch lists. What the FAA did after I left
6 Northwest with regard to that, I don't know.

7 The problem was pre-CAPPS the way you found out
8 of a person on a watch list was flying and I think this
9 holds true for all carriers, was that you would put the
10 name, a name into the computer system and during down
11 time, you know, 1:00 in the morning they would run the
12 name. You might come out with ten or fifteen pages of
13 possible hits and then at Northwest anyway we had one
14 person, her job was every morning to go through the hits
15 and look at some files that we had from various
16 government agencies that were looking for people and see
17 if we thought there was a match. If there was then we
18 would call whatever agency was looking for this person,
19 very time consuming process. Also if a person just
20 showed up and flew we wouldn't know about it until the
21 next day.

22 Part of what CAPPS did was take some of those
23 names and be able to operate in front of the computer.
24 It's kind of hard to explain. So we could do a little
25 bit more realtime looking for people.

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1 Q Are there any other sections of the 9/11
2 Commission Report besides the information that you have
3 referred to on page 393 that was of significance to you
4 in formulating your opinions in this case?

5 A No.

6 Well, let me rephrase it, not that I recall. I
7 have read it a couple of times, but I think that was the
8 pertinent section.

9 Q Could you turn to page 387 in the report, sir.

10 A Okay.

11 Q And directing your attention to the first full
12 paragraph beginning with a special note on the
13 importance of trusting subjective judgment. Do you see
14 that?

15 A Yes, I do.

16 Q Are you familiar with that section of the
17 report?

18 A Let me look at it.

19 Q Sure.

20 A Yes.

21 I'm sorry, your question.

22 Q Do you agree with the Commission's implication
23 there that there is an importance to trusting the
24 subjective judgment of the personnel on the ground
25 making decisions?

11 (Pages 38 to 41)

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<p style="text-align: right;">Page 42</p> <p>1 A Partially.</p> <p>2 Q In what way do you disagree?</p> <p>3 A I believe that the incident that they are</p> <p>4 referring to of the inspector turning somebody away, I</p> <p>5 think as I understand it and again from reading because</p> <p>6 I haven't worked with the customs immigration people</p> <p>7 specifically on this, there are either six or seven</p> <p>8 criteria that are used and I think only two have to do</p> <p>9 with the subjective judgment of the border agent,</p> <p>10 customs agent, and from what I read of this particular</p> <p>11 incident that they are referring to there were far more</p> <p>12 indicators that something was amiss than the agent's</p> <p>13 subjective evaluation of what was taking place.</p> <p>14 Q Do you agree, however, that subjective</p> <p>15 evaluation needs to play some role in assessing</p> <p>16 potential security problems?</p> <p>17 A It's very -- Yes and no. It's a very slippery</p> <p>18 slope. Let me explain.</p> <p>19 I'm very familiar with the profiling methods</p> <p>20 that the FAA said U. S. flight carriers should use after</p> <p>21 Pan Am 103 for people coming from Europe and Asia into</p> <p>22 the United States. At Northwest we hired an Israeli</p> <p>23 Company, ICTS International Consultants and Target</p> <p>24 Security. I haven't done the whole course, but I have</p> <p>25 sat in on many of their training sessions around the</p>	<p style="text-align: right;">Page 44</p> <p>1 in Dearborn. I know those people very, very well as I</p> <p>2 went down and met with them many, many times with the</p> <p>3 American Araban discrimination people. We were able to</p> <p>4 sort all that out once they understood why some of the</p> <p>5 folks were being what they said harassed was simply the</p> <p>6 way a ticket agent, a travel agent was processing their</p> <p>7 paperwork.</p> <p>8 Once we fixed -- took some of those kinks out</p> <p>9 most of the problems went away and they could live with</p> <p>10 our profiling methods because we were voluntarily</p> <p>11 profiling on flights from Detroit to Europe. We didn't</p> <p>12 have to. We did that on our own, but again the key to</p> <p>13 that whole thing was that we had to make sure that our</p> <p>14 people were adequately trained, again not to make false</p> <p>15 assumptions, again because these are key passengers of</p> <p>16 ours and partially that was one of the reasons we</p> <p>17 adopted CAPPs was that CAPPs doesn't know anything about</p> <p>18 you other than the facts on the sheet.</p> <p>19 What was happening is that we were having</p> <p>20 ticket agents at the ticket counter -- I can't recall</p> <p>21 inflight anything happening, but at the ticket counter</p> <p>22 not liking the way somebody looked, quote unquote, and</p> <p>23 then creating a situation and the guy was a doctor from</p> <p>24 Dearborn, a surgeon or something. That is what we were</p> <p>25 trying to eliminate, not making opinion based on just</p>
<p style="text-align: right;">Page 43</p> <p>1 world, introduced myself and said you're doing a great</p> <p>2 job, blah, blah, blah, you know, and I think on certain</p> <p>3 flights I think there is some -- something useful for</p> <p>4 that sort of subjective judgment.</p> <p>5 The problem is you have to have intelligent</p> <p>6 people. You have to have people that are very well</p> <p>7 trained and you have to have people that have undergone</p> <p>8 on-the-job training and been supervised by people that</p> <p>9 really understand the system or you can have all sorts</p> <p>10 of false alarms. Part of the reason we came up with</p> <p>11 CAPPs was that we had a number of situations worldwide</p> <p>12 where the ICTS profiling methods made people what they</p> <p>13 call high selectees and not random selectees, high</p> <p>14 selectees. When you looked at the details, looked at</p> <p>15 the facts of why were you made a selectee, they just</p> <p>16 didn't -- I didn't think they held water and we said</p> <p>17 there has to be a better way.</p> <p>18 So I'm very concerned about this sort of thing.</p> <p>19 You can use that type of subjective judgment again if</p> <p>20 you have been trained and you really understand the</p> <p>21 issues and can sort out the noise, so to speak. What</p> <p>22 happens, and this is a problem we had in Detroit, if you</p> <p>23 pull up where they say not nice things about me in</p> <p>24 Detroit, what one of the things we had happening was</p> <p>25 that there is a very, very large Mid Eastern community</p>	<p style="text-align: right;">Page 45</p> <p>1 simply on the way a person looked.</p> <p>2 Q Were there any formal complaints of</p> <p>3 discrimination lodged against Northwest based on the</p> <p>4 actions of the ticket agents?</p> <p>5 A Yes.</p> <p>6 Q In addition to speaking with the community and</p> <p>7 implementing CAPPs, what other steps did you take, if</p> <p>8 any, to address those issues of discrimination,</p> <p>9 perceived discrimination?</p> <p>10 A There may have been some at the legal,</p> <p>11 corporate legal level. I wasn't involved in any</p> <p>12 lawsuits, but I know there were some, but again as I</p> <p>13 said once the leadership in that community understood</p> <p>14 that through no fault of their own some of the things a</p> <p>15 couple of travel agents were doing simply made every</p> <p>16 single one of them a selectee. It had nothing to do</p> <p>17 with our profile.</p> <p>18 What they were doing is if you were flying to</p> <p>19 Yemen or something, you would buy the ticket from the</p> <p>20 travel agent in your community and that person as a</p> <p>21 service to you would pick up your luggage and take it to</p> <p>22 the airport and then when you came two or three hours</p> <p>23 later they would say here is your luggage and then of</p> <p>24 course the profile person would say has the luggage been</p> <p>25 in your possession, no, it has not. They would answer</p>

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<p style="text-align: right;">Page 46</p> <p>1 honestly and then they would get the full service 2 treatment. 3 Once we got those details straightened out and 4 I met them at the airport and we observed their 5 community people being processed they had no problem. 6 Again this is the leadership of the communities who were 7 doctors and lawyers. These were, you know, bright 8 people. I don't know the rank and file necessarily, but 9 I think the problem -- I know the problem went away. 10 Q What other behaviors besides having someone 11 else deliver the luggage to the airport were triggers 12 for the ticket agents during that period of time? 13 A I can't really say other than to speculate it 14 was -- because not much happens in front of the ticket 15 counter. They just didn't like their appearance was my 16 best take on it, and what we did, partially what we did 17 with the CAPPS program is we educated our ticket agents, 18 gate agents, et cetera, that once CAPPS was up and 19 running, we ran CAPPS six months before anybody else did 20 and then it went to all the carriers, but we did a lot 21 of time training those people on unless something 22 really, really bites you pretty good, we want you to -- 23 we do trust the system, so let the system decide. 24 Q Directing your attention back to the 25 Commission's report, are you familiar with the</p>	<p style="text-align: right;">Page 48</p> <p>1 that the lowly screeners took the fall. 2 Q Directing your attention to what has been 3 marked as Exhibit 5 to your deposition, is Exhibit 5 a 4 book entitled Aviation and Airport Security something 5 upon which you relied in formulating your opinions in 6 this case? 7 A Yes. 8 Q And to what extent did you rely on the 9 publication Aviation and Airport Security in preparing 10 your opinions? 11 A This book? 12 Q Yes. 13 A I read the book and there are sections that I 14 think are pertinent. 15 Q Can you identify for me those sections that you 16 believe are pertinent? 17 A I think chapter 4, page 68. 18 Q What on page 68 is significant? 19 A The third or the second full paragraph 20 Department of Transportation, blah, blah, blah, and it 21 gets down to the last sentence. The report also 22 concludes that there is no evidence that the system 23 recording an individual's age, race, color, national 24 ethnic origin, gender should be part of the program. I 25 agree with that.</p>
<p style="text-align: right;">Page 47</p> <p>1 Commission's conclusion that no-fly and automatic 2 selectee lists aren't enough to safeguard passenger 3 safety? 4 A Um-hum. 5 Q Is that yes, sir? 6 A Yes, I'm sorry. 7 Q Do you agree with that conclusion? 8 A Yes, sure. 9 Q Do you also agree with the Commission's 10 conclusion that the CAPPS system needs to be replaced? 11 A No, I do not. The CAPPS system again I think 12 proved itself on 9/11. There is not another system in 13 the world that I'm aware of that has ever had the 14 success that CAPPS had on 9/11. What failed on 9/11 was 15 what the people did with the people identified as 16 selectees. That thing could have been derailed that 17 morning, could have been. 18 Now, should CAPPS be worked on, sure. It can 19 always be improved, but should it be -- I totally 20 disagree it should be replaced. 21 Q What improvements would you make to CAPPS? 22 A I would have to spend more time looking at it, 23 but anything can get better over time. It can be 24 refined. I just -- I think it's irresponsible to say it 25 should be replaced. I think what happened on 9/11 was</p>	<p style="text-align: right;">Page 49</p> <p>1 Q So you agree that those factors should not be 2 taken into consideration in determining whether someone 3 is or is not a potential terrorist; is that correct? 4 A Not in and of themselves. 5 Now, if somebody -- If there is a whole series 6 of events I can see down the road a bit, there may be, 7 but some people would say if you're a certain ethnic 8 group you should immediately go to that line. I think 9 that is wrong. I don't think factually -- I just don't 10 think you can support -- we can support that as being 11 valid in a security sense. 12 Q Is it valid in a security sense to once 13 suspicions have already been raised to take ethnicity 14 and race into account in your opinion? 15 A I don't think ethnicity -- I'm not sure of the 16 definition exactly. If a person came from a certain 17 country possibly and there is a whole bunch of other 18 indicators you might want to spend more time with them. 19 All I'm saying is it isn't shouldn't be a factor in 20 doing the initial sort in my opinion. 21 Q It shouldn't be a red flag in the initial sort, 22 but it might come into play later on down the road? 23 A It could, yes, but should it determine whether 24 or not a person flies or not, I don't believe so. 25 Q Any other sections of Aviation and Airport</p>

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<p style="text-align: right;">Page 50</p> <p>1 Security on which you relied upon in preparing your 2 opinion?</p> <p>3 A I have read the book and I have known Kathy 4 Sweet for many years. It's the best book today 5 available on the subject. I have read it a couple of 6 times and I have recommended it to people that teach 7 aviation security. It's a very good overview.</p> <p>8 Q Would you describe Exhibit 5, Aviation and 9 Airport Security, a resource upon which aviation 10 professionals rely?</p> <p>11 A Everybody should read it.</p> <p>12 Q But is it, sir, something that specifically 13 aviation security professionals should rely in 14 performing work related to their profession?</p> <p>15 A I don't know that.</p> <p>16 Q Do you know whether aviation security 17 professionals rely on the 9/11 Commissions Report in 18 performing their day-to-day professional duties?</p> <p>19 A I would hope so, but I don't know that.</p> <p>20 I don't know what the security director at 21 Northwest reads. I mean, I took it upon myself when I 22 left the secret service and came to Northwest, I took it 23 upon myself to read everything that I could and it took 24 me about a year to really get up to speed and understand 25 to some degree how -- It's a very complex thing, how it</p>	<p style="text-align: right;">Page 52</p> <p>1 earlier, is that something that is relied upon by 2 aviation security professionals in their day-to-day 3 activities?</p> <p>4 A I would certainly hope that they are aware of 5 it. I can't recall specifically at IATA meetings where 6 we got out Annex 17 and said what do you think of 3.3.6. 7 You come at it a different way. You realize 8 everybody sitting around the table has read it and 9 understands it because they have had to implement it and 10 their countries have had to implement it to meet the 11 requirements, but it's not something that you talk about 12 per se.</p> <p>13 I don't know. You kind of burrow down to the 14 specifics of a particular paragraph and what is the best 15 way to do this in a third world country, that kind of 16 thing. I don't know if that helps you or not.</p> <p>17 Q In Aviation and Airport Security at page 161, 18 the author makes reference to the fact that final 19 decisions regarding boarding rest with airlines rather 20 than law enforcement.</p> <p>21 Do you agree with that conclusion?</p> <p>22 A What does she say? Where is it?</p> <p>23 Q On page 161, just subsequent to the note. 24 "There are also rare situations in which local law 25 enforcement may clear a passenger for boarding but the</p>
<p style="text-align: right;">Page 51</p> <p>1 all fits together and works, especially reading all 2 the -- Not only the government rules and regulations, 3 but the history thereof, the legislative intent and that 4 sort of thing.</p> <p>5 So I literally spent hundreds of hours. You 6 asked about classes. I never went to any classes per se 7 that taught me that stuff, because I don't know of any. 8 There are starting to be now programs in aviation 9 security in a couple of colleges, who by the way have 10 contacted me to see if I would be willing to be 11 involved. I have not for a variety of reasons. I have 12 no interest in that, but it's a difficult subject to 13 learn because again there is nobody teaching it that I'm 14 aware of.</p> <p>15 Q Do you know whether aviation security 16 professionals rely on the report of the President's 17 Commission on Aviation Security and Terrorism from 1990 18 in performing their day-to-day activities?</p> <p>19 A Yes, they do. I can say that because there is 20 a group called the Air Transport Association, and I was 21 a co-chair and I chaired that group for a number of 22 years and I was the one of two U. S. representatives to 23 Montreal and Geneva. So, sure, we discussed it in great 24 detail.</p> <p>25 Q How about the Annex 17 that we discussed</p>	<p style="text-align: right;">Page 53</p> <p>1 airline still does not want to board them."</p> <p>2 Do you agree that the final decision regarding 3 boarding rests with the airline as opposed to local law 4 enforcement?</p> <p>5 A The final decision whether or not you board a 6 passenger rests with the captain, not with the airline. 7 The captain can do whatever he or she deems appropriate 8 and there is nothing that the airline can do about it. 9 Sometimes captains will make inappropriate decisions and 10 the pilot, the captain will be called before the chief 11 pilot and there will be a chat, but ultimately under 12 international law the pilot makes the decision.</p> <p>13 Q Is it a fair statement that airlines have 14 different policies and procedures with respect to 15 handling the pilot's ultimate decision?</p> <p>16 A I don't know that. I just know that -- I know 17 that in my Northwest days systems operation control 18 always knew where I was and I had a cell phone. They 19 knew where all my people were and when a situation 20 arose, because we were a worldwide operation, I would be 21 called and many times briefed by the SOC and then 22 patched through to the captain and it may have been 23 halfway across the Pacific somewhere, had an incident. 24 We would chat about it.</p> <p>25 The captain would make the ultimate decision,</p>

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1 not me. My job was to listen to all the facts and say,
2 you know, I'm aware of what is happening in Sydney,
3 Australia and based on what you have told me from a
4 security sense I have no reason to say you should not
5 continue on to LA. You know, the decision is yours,
6 captain, but blah, blah, blah. Sometimes the guy would
7 say no, I am going the land in Honolulu. I was out of
8 it at that point.

9 I do know that the chief pilot, I know there
10 would be some discussions as to what is your rationale,
11 but I wasn't involved in any of that. That is between
12 the pilot group, but again the real job for me as
13 security director was to know that what they call group
14 captains, I don't know what they are at American. We
15 had a group of 25 747 drivers, 25 DC 10 guys who were
16 selected by their peers, not by seniority but because
17 they are really sharp people, respected, good pilots,
18 good heads, and I met with those people. I tried to
19 meet with them at least twice a year, because I knew
20 that I had to have rapport and trust because I wanted --
21 part of my job again was to help them sort out issues
22 and make the right decision.

23 Q Do you have any understanding as to what the
24 policies and procedures at American Airlines were in
25 December of 2003 with respect to boarding decisions?

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1 A I have no idea.

2 I can only speculate that they were similar to
3 what I experienced in my Northwest days, but I haven't
4 seen their manuals.

5 Q That is again based on your experience at
6 Northwest that ended in 1995; is that correct?

7 A That is correct.

8 Q You next refer in your report, sir, to a
9 publication called Combating Air Terrorism; is that
10 correct?

11 A Yes.

12 Q Of what significance is that publication to
13 your opinions in this matter?

14 A Combating Air Terrorism by Rodney Wallis.
15 Rodney Wallis is kind of the dean of aviation security.
16 He was the former director of IATA. Until Kathy Sweet
17 came out with her book, which is referenced, this was
18 probably the Bible of -- for the entire aviation
19 security community worldwide. I thought a particular
20 section by Mr. Wallis on page 81 made some sense.

21 Q What section was that, sir?

22 A It's the second paragraph.

23 Q To what does it pertain?

24 A It says that the policies and procedures within
25 the airline senior security executive group may be

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1 restricted to his or her own staff, but the policies
2 developed and adopted by the company would be need to be
3 implemented by the line managers and the inflight and
4 other operations departments. The functions corporate
5 line managers should not be provided -- should not
6 provide loopholes to which required procedures are not
7 followed.

8 I think what they are saying is that it's
9 important that the security people, the security
10 director implements, has policy in place that is put out
11 to all parts of the company and that adequate training
12 is done so people carry out the policies.

13 It's important -- It's extremely important from
14 my experience to adequately train the people and get buy
15 in for something to work. A good example would be again
16 in my Northwest days at Detroit. There was -- The FAA
17 came through Detroit and issued literally hundreds of
18 penalties against American, United, Northwest, Delta,
19 everybody that flies out of Detroit, although Northwest
20 is the big guy. It was pretty bad, and I think you know
21 the business. They weren't challenging is the problem
22 and we did extensive training. We brought in labor and
23 management and brought in the FAA and did an extensive
24 training program.

25 Six months later they came through again and we

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1 had zero violations and some of the other carriers that
2 I just mentioned still had hundreds of violations and
3 the difference was training and buy in. If you don't
4 get buy in by the employees and an understanding of why
5 you're doing what you're doing you fail, and I think
6 that is what Mr. Wallis is alluding to in that section.

7 Q Any other sections of the publication Combating
8 Air Terrorism on which you're relying in your report?

9 A I have read the book a number of times, but
10 nothing that comes to mind. It's a good book.

11 Q The next publication you mention in your
12 report, sir, is a book entitled The Naked Crowd which
13 has been marked as Exhibit 6 to your deposition.

14 Of what significance is that publication?

15 A A whole bunch.

16 Q Could you describe for me --

17 A Do you have it?

18 Q Yes, I do.

19 Could you describe for me what section or
20 sections you relied on in preparing your opinions?

21 A Can I give you page numbers?

22 Q You certainly can.

23 A Page 26 -- Well, if you look in the index
24 anything having to do with CAPPS, but 28, for example.

25 Let's go to page 28. That is better than 26.

15 (Pages 54 to 57)

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1 They talk about human intelligence has proved far more
2 effective than machines and they talk about the EL AL
3 methods, you know, profiling. They talk about guards
4 that are trained to look for changes in facial
5 expression, body language, all this sort of thing.
6 Ability to pick out a suspicious traveller out of the
7 crowd.

8 Q Is that the kind of training that you referred
9 to with regard to ICTS --

10 A Yes.

11 Q -- a few minutes ago?

12 A EL AL tries to determine whether a particular
13 passenger poses a serious risk after he or she has been
14 questioned by a human security guard in psychological
15 analysis.

16 I have nothing against profiling per se. Again
17 the key issue for profiling to me is adequate training
18 to not do a whole bunch of false positives for the wrong
19 reason.

20 All the sections that I have in here have to do
21 with that sort of thing. Another one is on page 105.
22 "There seems to be general agreement among psychologists
23 that there is no particular psychological attribute that
24 can be used to describe the terrorist or any personality
25 that is distinctive of terrorists. For this reason, the

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1 U.S. Secret Service, which once looked for people who
2 fit profiles of stereotypes of presidential assassins,
3 has abandoned its personality profiles and now looks for
4 patterns of motive and behavior."

5 I was involved, I might add, in '71 and '72
6 with a team of four or five PhD's that studied the
7 secret service files for years and we were using punch
8 cards in those days with an IBM main frame. We could
9 not come up with a useful profile. To the best of my
10 knowledge when I retired in '89 we never did go back to
11 a profile in that sense.

12 Q I note you have a number of stickies in your
13 copy. Could you just identify for the record on what
14 pages the stickies appear?

15 A Yes, some of them don't really apply.

16 Like on this page, it just talks about CAPPS
17 used at airports, but I will give it to you. Page 26,
18 page 28, which I just read to you from, page 102. Page
19 102 they are talking about data mining. Page 105, page
20 107, page 147, page 196, page 214, that's it.

21 Q During --

22 A I might clarify, too.

23 On one of those toward the end, I can't
24 remember which, when I said data mining I did have a
25 contract after 9/11 with Experion. They were trying to

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1 win a contract to do data mining, and that is all I can
2 say about it. They didn't get the contract.

3 Q Directing your attention to page 107, which is
4 one of the pages that you referenced, on that page the
5 author makes the assertion in the first full paragraph
6 that, "An expanded CAPPS profile might also be easy for
7 terrorists to defeat."

8 Do you agree with that assertion?

9 A I don't think the author understands CAPPS.
10 Let me clarify that.

11 You may by a number of methods possibly figure
12 out a way to get a better or better/worse depends on how
13 you want to look at. In other words, you're a good guy.
14 Not a good guy, bad guy. You're better known than that
15 person.

16 What this person does -- What the author does
17 not understand in this case is that you don't defeat the
18 system because every single bag is scanned. It's just a
19 matter of to what degree you scan the bag. So I don't
20 consider that defeating the system.

21 Q So to the extent that someone could lower their
22 score by taking particular actions you would agree with
23 the conclusion; is that correct?

24 A You possibly you could have an -- you could
25 influence your score. I don't think that means you have

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1 defeated the system, because we don't say have a nice
2 flight and we don't -- and not check you or your
3 luggage. You are still scanned. Your luggage is
4 checked, et cetera, et cetera.

5 Q So for example, one of the criteria that I
6 believe you have mentioned that is factored into the
7 CAPPS system is frequency of flight; is that correct?

8 A Yes.

9 Q So if you took a certain number of flight
10 segments would that have a potential impact on your
11 CAPPS score?

12 A Right.

13 The part that I can't talk about is the number
14 to influence the score, but it's more than two or three,
15 and the theory behind that quite clearly is that when we
16 designed that program we didn't believe that somebody
17 was going to take an inordinate number of flights, 25,
18 50, I don't know what the number is that they finally
19 agreed on. They just don't have the time or the
20 inclination to do that, in my opinion.

21 Q As a corollary to that, participation in
22 frequent flier programs is also a factor that could
23 reduce your CAPPS score; is that correct?

24 A Right, but you would have to be -- You would
25 have to be elite, not -- You can't just fly again, like

16 (Pages 58 to 61)

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1 I say, 10,000 miles and that makes you have a good
2 score.

3 Q The author also asserts on page 107 that
4 Mohammad Atta tested the CAPPS system prior to 9/11 by
5 flying the flights that he intended to hijack. Are you
6 aware of that, sir?

7 A Just from what I have read, yes.

8 Q Based on that information that you have read,
9 do you believe that it would be possible for others to
10 do the same thing in the future?

11 A You mean do a 9/11 scenario?

12 Q For others to test the CAPPS system in the way
13 that Mr. Atta did?

14 A From what I have read I don't believe that any
15 of those folks flew enough to modify their score. I'm
16 still not sure where you're going.

17 Q Sure.

18 Regardless of the score that they had, would it
19 be possible for someone to test run the flights on which
20 they intended to commit criminal activity?

21 A That is a very common thing. If you look at
22 the history of aviation sabotage and other sabotage
23 issues unrelated, that is one of the ways that people
24 manage to get caught is that they hang around at a
25 location too long or they make too many trips. Sure,

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1 that is a consideration.

2 Q Are you aware of whether aviation professionals
3 refer to and rely upon the Naked Crowd in making
4 day-to-day decisions as aviation security officials?

5 A I would hope so, but I don't know. I don't
6 know what my colleagues read.

7 Q Directing your attention to the next
8 publication on the list, which I believe is The Culture
9 of Fear, of what significance was that publication to
10 your opinions recited in your report?

11 A On page 200 they talk about Newsweek and the
12 reporting by the media of aviation incidents and how it
13 raises the fear of the public.

14 Q Of what significance is that specifically to
15 your report?

16 A I believe that the 9/11, events of 9/11 raised
17 the level of consciousness in the flying public or the
18 public, the flying public in particular of what could
19 happen particularly right after 9/11. I think that, I
20 would call it nearly hysteria peaked right around there.

21 I was actually involved in an incident on a
22 Northwest flight, inflight the third day after we were
23 flying again. I didn't work for Northwest, but I was
24 flying to Washington, DC on the first day available to
25 do some meetings, and I think on that A-320 I think

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1 there must have been all of eight or nine of us.

2 The entire passengers were in first class. I
3 think there was one person in the back. They just moved
4 everybody up and there was a Semitic looking fellow
5 sitting on 1A. I was on 1D doing a Power Point that I
6 had to present when I got to Washington, and the flight
7 attendant said Mr. Laird. I said I don't work here.
8 She said we have to talk to you. We went up to behind
9 the curtain. She said have you seen the guy in 1A. I
10 said no, I have been busy. I have work to do. She said
11 well, look at him. I looked through the curtain. He
12 was very Semitic, Mid Eastern looking guy, young guy,
13 and I said I would recommend -- I don't work here. I
14 would recommend that you have the captain go through
15 ACARS, the computer system, and contact the SOC and see
16 what you know about this guy. He is not doing anything.
17 He is reading a paperback book. Let's calm down and I
18 sat down and it was out of the bag, so to speak.

19 So I went back up in a few minutes and he was a
20 business guy employed by a known corporation. I can't
21 remember his status, but flying a lot on Northwest. I
22 said let's just -- But it was beyond -- At that point it
23 was out of control. They were really spooked, and there
24 was two gals and a guy, and the guy was in the back.
25 The flight attendant a great big guy.

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1 I said look it, whatever his name was, why

2 don't you take Mary's place. You work the front. You
3 stay up here by the cockpit door, because we were
4 already starting down at that point. I said Mary, you
5 go in the back and if he comes forward, you know, you
6 stand between him and the cockpit door. I will take
7 care of him from the back. I know how to -- I'm trained
8 by the LAPD to do certain things to people and I knew
9 what I could do, if I had to.

10 We landed without incident and we taxied up to
11 the tractor thing, you know how they take you in, and
12 everybody got up and the station manager came on.
13 Northwest, you know I know all these people and said
14 everybody sit down, and they said Mr. Laird please get
15 off the plane and I got up and went into the whatever
16 they call those conveyances and here is five or six
17 uniform policemen, and I said to the station manager,
18 this thing is totally out of control, and as you know
19 better than I there were hundreds if not thousands of
20 these incidents going on and I think that is what they
21 refer to here.

22 I personally would have flown the next day, but
23 I believe in statistics.

24 Q To what extent, if any, does that perception
25 created by the media, has you have mentioned on page 200

17 (Pages 62 to 65)

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<p style="text-align: right;">Page 66</p> <p>1 here, influence your opinions rendered in your report?</p> <p>2 A I'm not sure how to take that.</p> <p>3 Q Does the perception that the media created as</p> <p>4 described on page 200 have any role in what you think</p> <p>5 occurred on December 28th, 2003?</p> <p>6 A For my opinion?</p> <p>7 Q From your perspective.</p> <p>8 A Partially.</p> <p>9 I think the events of 9/11 in and of themselves</p> <p>10 obviously have to be reported in a big, big way, but I</p> <p>11 think the more that sort of thing is reported and you</p> <p>12 see it again and again and again, I think that raises</p> <p>13 the level of apprehension in people. Also I think</p> <p>14 particularly in the airline industry, whether it's</p> <p>15 United or American who lost friends, I think all these</p> <p>16 things go to make people pretty sensitive to what they</p> <p>17 perceive to be happening around them, yes.</p> <p>18 Q Any other sections of the Culture of Fear on</p> <p>19 which you relied in preparing your report?</p> <p>20 A No.</p> <p>21 Q Do you know whether aviation security</p> <p>22 professionals rely on the Culture of Fear in performing</p> <p>23 their day-to-day aviation security activities?</p> <p>24 A I don't know that.</p> <p>25 My guess is after 9/11 they were so busy for</p>	<p style="text-align: right;">Page 68</p> <p>1 it's like to work 24 hours a day for a week and have the</p> <p>2 phone ringing constantly from around the world with</p> <p>3 quote unquote incidents. I have lived through that</p> <p>4 hysteria and in that particular instance luckily it</p> <p>5 didn't happen in the United States, but again I have</p> <p>6 been through those sorts of situations where, what do</p> <p>7 you call it, people are extremely sensitive to a lot of</p> <p>8 things.</p> <p>9 Q Directing your attention to the next</p> <p>10 publication listed which is How Safe Are Our Skies, and</p> <p>11 it has been marked as Exhibit 9 to your deposition, of</p> <p>12 what significance is that publication to your opinions</p> <p>13 rendered in this case?</p> <p>14 A Page 102.</p> <p>15 Q Of what significance is page 102?</p> <p>16 A They talk about security training given by the</p> <p>17 airlines to their ground staff and flight crews under</p> <p>18 the auspices of the Federal Aviation Authority. It</p> <p>19 talks about the need for dealing with obnoxious</p> <p>20 passengers, air raged people, and that sort of thing.</p> <p>21 It's the first -- that real long paragraph in the middle</p> <p>22 of the page. The use of role playing.</p> <p>23 Anyway it stresses the importance of training,</p> <p>24 training crews in how to deal with inflight incidents.</p> <p>25 Q Of what significance is that particular</p>
<p style="text-align: right;">Page 67</p> <p>1 the next couple of years they probably didn't even read</p> <p>2 the newspaper.</p> <p>3 Q Directing your attention to the next</p> <p>4 publication listed in your report, which I believe is</p> <p>5 entitled America the Vulnerable, in what way is that</p> <p>6 publication significant to the opinions rendered in your</p> <p>7 report?</p> <p>8 A On page 74 they quote Rafi Ron, who was</p> <p>9 security director of Ben Gurion Airport in Tel Aviv</p> <p>10 about behavioral, what I would call behavioral profiling</p> <p>11 and a program he set up. He was hired by the Boston</p> <p>12 Airport and set up a program called Logan Watch where</p> <p>13 people are trained to look for behavioral patterns.</p> <p>14 Again I think in concept I have -- I believe in</p> <p>15 the process. I just think giving somebody a one or two</p> <p>16 hour class I think is in my opinion irresponsible.</p> <p>17 Q Any other sections of that publication which</p> <p>18 are of significance in your report?</p> <p>19 A No.</p> <p>20 Q Do you know whether America the Vulnerable is a</p> <p>21 publication upon which aviation safety professionals</p> <p>22 rely on in their day-to-day activities?</p> <p>23 A I don't know that. I can say that I obviously</p> <p>24 was not at Northwest on 9/11, but I was at Northwest</p> <p>25 when the first call for war took place and I know what</p>	<p style="text-align: right;">Page 69</p> <p>1 paragraph in your opinions in this case?</p> <p>2 A From the materials, the depositions and so</p> <p>3 forth that have been provided it appears to me there may</p> <p>4 have been -- There is some question as to -- in my mind</p> <p>5 whether or not the people received adequate training.</p> <p>6 Q Are you aware, sir, that the flight crew were</p> <p>7 not permitted to answer a number of questions with</p> <p>8 regard to the nature of their training because that</p> <p>9 information constitutes what the TSA might consider to</p> <p>10 be sensitive security information?</p> <p>11 A I saw that and that creates a dilemma because</p> <p>12 it's hard for me to comment when they won't let me read</p> <p>13 the material.</p> <p>14 Q Is it your understanding, sir, that the TSA is</p> <p>15 responsible for determining whether or not that</p> <p>16 information may or may not be released rather than</p> <p>17 American Airlines?</p> <p>18 A I understand that very well.</p> <p>19 I'm involved in other issues surrounding 9/11</p> <p>20 and on a much larger scale than this case and one of the</p> <p>21 major battles with the law firms that I'm involved with,</p> <p>22 which has been sought for several years and eventually</p> <p>23 won was on that very issue. How can we defend ourselves</p> <p>24 when we can't get the documents?</p> <p>25 Q Are there other sections of How Safe Are Our</p>

18 (Pages 66 to 69)

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1 Skies that are pertinent to your analysis in this case?

2 A Not that I recall.

3 Q I believe the last publication that you make
4 reference to in your report is a book called
5 Disinformation that has been marked as Exhibit 10 to
6 your deposition.

7 Of what significance is that publication to
8 your analysis in this case?

9 A Page 167 and 168 dealing with racial profiling
10 of terrorists.

11 Q Why are those pages of significance to you in
12 your opinions?

13 A I think the author quite clearly states that
14 the -- using a profile to identify a terrorist based on
15 race is not founded in fact.

16 Q Any other sections of this publication which
17 are of significance to you in preparing your opinions in
18 this case?

19 A No.

20 Q Do you know, sir, whether How Safe Are Our
21 Skies is a publication relied upon by aviation safety
22 professionals in performing their day-to-day duties?

23 A I have no knowledge of that.

24 Q How about Disinformation?

25 A I have no knowledge of their reading habits.

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1 Q You also list in your report, sir, a number of
2 publications that you have prepared or assisted in
3 preparing?

4 A Yes.

5 Q The first of those is an article entitled
6 Perception and Reality.

7 Was that publication of significance to you in
8 preparing your opinions in this case? It has been
9 marked as Exhibit 11 to your deposition.

10 A To the extent that it's, you know, part of who
11 I am and how I have formed my opinions.

12 Q Is there anything specific in that publication,
13 sir, that is of relevance to your opinions in this case?

14 A As I recall, only that perception is reality
15 and the perception may be incorrect, that's all.

16 Q The next publication that you reference, sir,
17 is Airline Security Regulatory Framework and Protection
18 Security and Safeguards Practical Approaches and
19 Perspectives contained within Protection Security and
20 Safeguards. I'm sorry, I repeated myself there. It has
21 been marked as Exhibit 12 to your deposition.

22 Of what significance, if any, is that document
23 to the opinions rendered by you in this case?

24 A I was asked to do a chapter or two in this book
25 and what it had to do with was the need for individuals

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1 that write regulations understand the industry in which
2 they work, and one of the examples I used is that people
3 will write how to regulate security in a flight kitchen,
4 but they have never even seen a flight kitchen. That
5 was the point I was trying to get across and there are a
6 couple of the different incidences.

7 The reason I listed this in the documents
8 you're going through right now is I was asked to list
9 documents that I had written on aviation security.

10 Q I understand that, sir. I'm just trying to see
11 if there is any particular relevance.

12 A I didn't see that I can quote a paragraph in
13 here, but again it's part of what I believe and who I am
14 and perception to me is reality.

15 Q Okay.

16 Directing your attention to what has been
17 marked as Exhibit 13 to your deposition, it's an excerpt
18 entitled Grounding Terrorists published with a Larry C.
19 Johnson.

20 Is that the next publication listed in your
21 report?

22 A Yes.

23 Q Is there any significance of that article
24 co-authored by you in your opinions rendered in this
25 case?

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1 A I would say the same.

2 Grounding Terrorists was in the aviation
3 security magazine, which is the publication of ASIS
4 International, probably the leading security journal in
5 the world. Larry and I -- Larry is a CIA State
6 Department type counter terrorism expert. Larry and I
7 were in BGI at this time. We were partners in the
8 company with the two ambassadors. We were asked to
9 write this article as a result of what was happening in
10 the industry, what had happened with Pan Am 103.

11 Again I didn't read this, reread this in
12 relation to this case and say this is important. I
13 listed this because this is what I believe to be true.

14 Q You make reference in this article to passenger
15 profiling as a means of identifying potential
16 terrorists.

17 What criteria beyond those that we have already
18 discussed as personified in CAPPS do you believe should
19 be used in passenger profiling according to this
20 article?

21 A I don't understand what you're getting at.

22 Q You make reference as --

23 A One of the tools is profiling.

24 Q One of the tools in Grounding Terrorists is to
25 profile and that specific criteria should be used to

19 (Pages 70 to 73)

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1 identify potential terrorists.

2 You have testified earlier today about the
3 information that was used in CAPPS. What other
4 criteria, if any, do you believe needs to be taken into
5 account to determine if someone is a potential terrorist
6 to profile them adequately?

7 A I think the CAPPS program that is still in
8 place and running, because nothing has replaced it yet,
9 does an adequate job of identifying who we should take a
10 better look at.

11 Once a person -- In my opinion what failed in
12 9/11 was they identified some people as, actually nine
13 or ten, as I said, as selectees at various airports
14 actually. At that point I think is when you start doing
15 profiling, so to speak, in that more in the line of the
16 way the FAA adopted the Israeli EL AL methods. They
17 didn't copy them. They kind of modified what they do
18 and you go through a matrix of like 32 items.

19 At that point you need a professional person to
20 do their profile called an evaluation to go through the
21 whole scenario and you might clear the individual after
22 two or three questions. You might after five or six or
23 ten questions call the police. I mean, that is I think
24 the role of profiling.

25 Q So is it fair to say, sir, what you would do is

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1 supplement the existing CAPPS system with the use of
2 professional profilers in the manner in which the
3 Israelis have performed that profiling function?

4 A Yes.

5 Q The next article that you reference in your
6 report, sir, is entitled Fighting Fraud on the Fly. It
7 has been marked as Exhibit 14 to your deposition.

8 A Yes.

9 Q Is there any significance of this article to
10 your opinions rendered in this case?

11 A No, I just listed this because you wanted
12 publications. This deals with airline ticket fraud.

13 Q The last publication listed in your report is
14 Airline Passenger Security Screening New Technologies
15 and Implementation Issues dated 1996. It's been marked
16 as Exhibit 16 to your deposition.

17 I believe you mentioned in your report that you
18 made comments to this report. Are you aware of whether
19 your comments actually appear in this publication or
20 not?

21 A No, they do not.

22 Q Do you recall what comments you made in
23 connection with this publication?

24 A I was provided -- Well, as you will see here,
25 Homer Boynton, former director of security at American,

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1 who I have done some things with in the past, Homer
2 discussed -- Also Wilfred Jackson is a good friend from
3 the University of North Dakota at the time. They
4 suggested that I be on a review panel. So before this
5 sort of thing is published they send it out to ten or
6 fifteen people and we comment. I did comment. What did
7 I say, I don't know. I can't tell you. I don't know.
8 You know they send out a double space and you write
9 comments.

10 Q Directing your attention to the second to the
11 last page of that publication.

12 A This one, the one we just talked about?

13 Q Yes, the one we just talked about, Air
14 Passenger Security, directing your attention to the last
15 paragraph on that page.

16 A The Role of Operators In Passenger Screening.

17 Q Yes, the last paragraph in that subsection.

18 A Yes.

19 Q Beginning with to aid carriers?

20 A Yes.

21 Q You agree with the panel's conclusion that even
22 without adding more advanced screening equipment current
23 screening systems and procedures can be improved
24 significantly by placing greater emphasis on human
25 factors?

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1 A Just a minute. I have to read this.

2 I take that, that the use of the word of human
3 factors different than you do. They are not talking
4 about profiling. They are talking about in the FAA
5 parlance back in '06. Human factors are the way that
6 the screeners interact with their technology. It's
7 not -- It has nothing to do with profiling.

8 Q So it's technology based in terms of operating
9 the actual equipment?

10 A Understanding the equipment, how to use the
11 equipment, that kind of thing, because many times what
12 happens, my experience has been that the screeners
13 aren't -- They are not given adequate training to
14 understand the technology that they are utilizing.

15 An example I could use would be I used to wear
16 glasses and I would walk through the screening
17 checkpoint and I would set off the mechanical detector
18 and I would say here, hold my glasses and they would say
19 no, that's not it, and I would say yeah, it is, believe
20 me. I would go back and I would walk through and they
21 would hand me my glasses and they had a puzzled look.

22 Well, they didn't understand if you take a
23 metal framed glass like this, not very big, and put it
24 in your pocket and walk through the metal detector, this
25 sphere of metal, ring of metal that holds the lens

20 (Pages 74 to 77)

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1 becomes a solid piece of metal because of the magnetic
2 fields and to me that is a disservice to the screener.
3 They don't understand their own technology.

4 That is what they are talking about in my
5 opinion, that is human factors. There was a whole
6 section at the FAA lab in Atlantic City called human
7 factors and that is what they dealt with was those kinds
8 of issues. How can the human interact with the process.

9 Q Okay.

10 A That is how I read that.

11 MS. MARIANI: Off the record.

12 (A recess was taken.)

13 BY MS. MARIANI:

14 Q Sir, one of the things that we will do here
15 today is ask you a series of questions about the
16 opinions you have prepared in this case, and I would
17 like to start with the summary of events that is listed
18 in your opinions.

19 Let me actually give you the copy that has been
20 marked for purposes of your deposition. It's been
21 marked as Exhibit 16 to your deposition.

22 A Yes.

23 Q First of all, sir, you state in the summary of
24 events that Flight Attendant Walling advised Captain
25 Ehlers that she was alarmed by suspicious activity by a

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1 person in seat 20F; is that correct?

2 A Yes.

3 Q Did you review the depositions of Flight
4 Attendant Walling, Flight Attendant Sergeant, Flight
5 Attendant Malankovich and Captain Ehlers in this case?

6 A Yes, I did.

7 Q Did you see that Flight Attendant Walling
8 before boarding advised the other flight attendants that
9 she was concerned about a particular passenger?

10 A As I recall that happened, yes.

11 Q And did you see in those depositions that
12 Captain Ehlers had concerns about two passengers prior
13 to boarding?

14 A Yes.

15 Q And did you see that Captain Ehlers made
16 contact with Ms. Walling about that information?

17 A I'm not -- My recollection isn't quite clear if
18 he made the initiation or she did, but yes, they did
19 talk.

20 Q Are those important pieces of the puzzle in
21 forming your opinions?

22 MR. KIRKPATRICK: Objection to the form of the
23 question.

24 BY MS. MARIANI:

25 Q Are those important pieces of information that

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1 you considered in forming your opinions?

2 A Yes.

3 Q And are they reflected in your report?

4 A I believe so.

5 Q You also state in your summary of events that
6 an assumption was made that the passengers in row 20
7 were traveling together.

8 What is the basis for that conclusion, if you
9 know?

10 A Reading the depositions.

11 Q Whose deposition specifically?

12 A I believe Walling, flight attendant. I think
13 she was the lead, lead flight attendant.

14 Q So the lead flight attendant, the testimony of
15 the lead flight attendant is what led you to believe
16 that?

17 A Walling, I think she was the lead, maybe she
18 wasn't, correct me if I'm wrong. I will just refer to
19 her as Walling.

20 Q Any other bases besides the deposition of the
21 flight attendant who you believe to be Walling that
22 supports the assumption that the passengers in row 20
23 were traveling together according to the American
24 Airline personnel on board that flight?

25 A No, all I know is what I read in the

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1 deposition. As I recall she is the one that made the
2 assumption. That assumption may have been made in
3 relation to her comments -- I imagine she must have -- I
4 can't recall whether she called on the phone or she went
5 and talked with him, but with the captain and there was
6 a whole ponytail thing that these guys must be together.

7 Q When you say they said these guys must be
8 together, what information do you base that on?

9 A Again on the deposition. I think primarily on
10 Walling's and then her exchange with the captain. This
11 is further on into the series of events.

12 There is a series of things that happened at
13 the gate and then aboard the aircraft.

14 Q And is it your understanding that Flight
15 Attendant Walling and Captain Ehlers did or did not have
16 knowledge of the incidents involving the others at the
17 gate before boarding the flight?

18 A I'm not clear what you're saying.

19 Q Sure, let me rephrase.

20 Do you know if Captain Ehlers knew of the
21 incident involving Flight Attendant Walling and a
22 passenger at the ticket counter beforehand?

23 A I don't believe so.

24 Q Do you know whether Flight Attendant Walling
25 had any knowledge of Captain Ehlers being approached by

21 (Pages 78 to 81)

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1 two passengers in the lounge area before she boarded the
2 flight?

3 A As I recall, no.

4 Q Do you recall where Mr. Cerqueira was seated on
5 the flight?

6 A On the window -- He asked to be relocated to an
7 exit row and he was reassigned an exit row seat, I think
8 26 or something. I don't recall the exact number.

9 Q Would 20F sound familiar?

10 A Yes, there it is. That is a window seat on the
11 right side.

12 Q Do you know where the passengers who approached
13 Captain Ehlers were seated?

14 A The next two seats over, E and F.

15 Q D and F?

16 A D and E, excuse me. Yes, it's three and three.

17 Q Okay.

18 Do you know if any other members of the flight
19 crew had concerns about the passengers seated in 20D, E
20 or F?

21 A I believe, as I recall again from the
22 depositions, that Walling may have talked to other
23 flight attendants. I don't recall the exact specifics.

24 As I recall, they independently didn't come to
25 Walling and say I'm concerned about those. As I recall

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1 it went the other direction.

2 Q Do you recall whether Flight Attendant Lois
3 Sergeant expressed concerns at any time about any of the
4 passengers seated in row 20 seats D, E or F?

5 A I believe after -- Again after talking with
6 Walling, as I recall.

7 Q Do you know whether Flight Attendant Sergeant
8 did anything to address her concerns regarding the
9 passengers seated in 20D, E and F?

10 A As I recall the only thing that transpired
11 between the flight attendants was that Sergeant and
12 Walling had talked.

13 Q Do you recall any testimony that Flight
14 Attendant Sergeant spoke to Captain Ehlers directly?

15 A I don't recall that. I'm not saying it didn't
16 happen, I just don't recall it.

17 Q Sure.

18 Do you recall the nature of the concerns that
19 Flight Attendant Sergeant had with regard to the
20 passengers seated in 20D, E and F?

21 A I don't.

22 Well, what I'm not certain of in my mind from
23 reading the depositions, I can't recall the exact
24 sequence of events. I know that the flight attendants
25 talked about the people in that row and my recollection

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1 is that it was initiated by Walling, Flight Attendant
2 Walling.

3 Q You also mention the involvement of the state
4 police in your summary of events.

5 Are you aware of the nature of the
6 investigation conducted by the state police in this
7 case?

8 A Just from the information that I was provided
9 by counsel.

10 Q What was the nature of that information, sir?

11 A I believe it was a police report and then the
12 depositions of the flight crew and the ground security
13 coordinators and so forth and so on.

14 Q Could you summarize for me generally what your
15 understanding is about the role of the state police in
16 this investigation?

17 A The state police were called to remove these
18 people from the aircraft, which they did, and they
19 were -- the state police questioned these folks,
20 determined who they were, et cetera, et cetera, and
21 eventually determined they weren't of any risk and
22 delivered them to the ticket counter.

23 Q What is your understanding of the manner in
24 which law enforcement interacts with airline and airline
25 security personnel as of December of 2003?

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1 A I'm not -- Say it a different way.

2 Q Let me narrow it down a little bit.

3 Do you have an understanding, sir, as to the
4 manner in which law enforcement and airline security
5 operated when issues of passenger security were involved
6 as of December 2003?

7 A I have knowledge of how it happened in my days
8 at Northwest. I have no reason to believe that it's
9 changed, and I say that simply because I have an ongoing
10 relationship with various airport police chiefs and TSA
11 officials and we discuss these sorts of things.

12 So all I can say is based on my experience in
13 the industry police do not get involved, particularly
14 aboard an aircraft unless they are called. Police do
15 not come to the gate and say that I'm going to look at
16 who is on your airplane, unless there is a very specific
17 reason, but I have never seen that happen.

18 Q When they do come to the aircraft and ask to
19 participate or decide they are going to participate in
20 an investigation, what type of investigation do they
21 undertake?

22 A I am not sure what you mean by type, but I was
23 a policeman for a number of -- many, many years ago.

24 Normally what happens is you're called to
25 assist on something or other and you talk to the person

22 (Pages 82 to 85)

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1 that called you and then you interview the people
2 involved, in this case remove them from the aircraft and
3 talk with them. There very likely was not a detailed
4 police report involved, but something on what we used to
5 call a shift report. You have to note that something
6 happened. I imagine that is what they did.

7 Q What kind of information do they consult, if
8 any, in investigating passengers who are considered to
9 be potential safety risks?

10 A In a case like this?

11 Q Yes.

12 A They would want identification. They would
13 want to see driver's license, passports, that sort of
14 thing to determine you are who you say you are, and they
15 would run those names. I would assume they would run
16 them. I would hope they would run them against various
17 indices and then interview the people and probably
18 separately, if it's good police work, and then compare
19 stories and make a decision whether there is anything to
20 pursue.

21 In my understanding again from reading
22 information I was provided they had no interest in these
23 people.

24 Q Based on the information that you were
25 provided, do you have any understanding as to what

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1 resources the state police consulted?

2 A I don't recall.

3 Q Do you have any understanding as to whether the
4 individuals were questioned collectively or separately?

5 A I believe separately, at least our client.

6 Q Do you have any understanding as to how long it
7 took the state police to perform an investigation of the
8 individuals who were removed from the flight?

9 A Just minutes, not hours. I don't recall
10 whether it was 23 minutes or 39. It wasn't too long.

11 Q Are you familiar with Mr. Cerqueira's
12 deposition testimony?

13 A Yes.

14 Q Are you familiar with the fact that he
15 testified that he was placed in a narrow room with the
16 other two individuals for approximately two hours before
17 he was released?

18 A I don't recall that. I'm wrong on the time,
19 but --

20 Q Why would it take two hours to check the kind
21 of information that you mentioned before?

22 A I have no idea.

23 From my experience both in police work, uniform
24 police and secret service, we would never leave anybody
25 in the cell for two hours.

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1 Q Are you aware of the fact that the flight in
2 question had all passengers removed and all luggage
3 rescreened?

4 A Yes.

5 Q Do you know why that occurred?

6 A Somebody made the decision, but I can -- I
7 mean, I know why it happened. I don't know -- I just
8 know from experience when I have been involved in
9 similar situations if you do not get control of the
10 situation early on it literally has a life of its own
11 and you -- Once that thing starts down the slope, so to
12 speak, there is no undoing it.

13 It's kind of like calling the fire department.
14 You can't call back and say never mind. Once the rig
15 leaves the station it's coming to your house. The same
16 thing there.

17 So what you want to do in a security sense is
18 get security people involved as, this is what we taught,
19 as soon as possible. You worry about the airplane. Let
20 us worry about the security incident.

21 Q When you say this is what we taught, are you
22 referring to what you --

23 A At Northwest.

24 Q -- what you were involved in teaching at
25 Northwest prior to the time that you left in June of

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1 1995?

2 A I was on a flight one time in Minneapolis when
3 I was still with Northwest in first class on a domestic
4 flight and some guy right before they shut the door said
5 I have to get off and he just got off. He had a
6 briefcase and he got off and a couple of the passengers
7 said, this is pre-9/11, said how do we know he didn't
8 leave something on the plane and we ended up -- It's
9 gone. I mean, it's hysteria. He didn't leave anything
10 on the plane. We didn't know that until everybody got
11 off and there is nothing on the plane. You know, you
12 take a two hour delay to sort out the mess and some
13 people say I don't want to fly. The whole thing falls
14 apart on you.

15 Q Do you agree with the fact that -- Strike that.

16 Is it appropriate in your assessment to err on
17 the side of caution when you have a situation such as
18 the one you have described and verify that that
19 individual did not leave anything on board?

20 A That is a very difficult question to ask or to
21 answer.

22 I can use an example coming at it from a
23 different way. Hopefully it will help and that is
24 dealing with bomb threats. Based on experience there is
25 a very definite way all airlines of the world deal with

23 (Pages 86 to 89)

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1 bomb threats. If not you would be landing many, many
2 planes every day, and so this is not the sort of thing
3 that you discuss with the public because the public
4 would say if there is a bomb threat you land the plane.

5 You do not land the plane if there is a bomb
6 threat unless there is credible information within the
7 threat based on 50 years of experience by all the
8 airlines of the world that we don't believe this to be
9 true. So part of training, my job as I saw it at
10 Northwest in the training sense was I had an agreement
11 with the pilots at Northwest. I don't know what they do
12 at American, but I had an agreement with them that we
13 would process the threats. I'm not going to bother you
14 with them, because all it does -- You have too many
15 other things to worry about and they trusted me on it.

16 If there was a threat that I thought credible
17 we would ground the plane or dump it or do whatever we
18 had to do. It's the same sort of thing based on a whole
19 bunch of facts and circumstances and what does the GSC
20 say, it's hard to answer that question.

21 Q Is it a fair statement, sir, that each
22 particular security incident has to be evaluated
23 individually based on the information available?

24 A Yes, and it's -- Yes, that is true, and it's --
25 Each one is slightly different and it's critical that

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1 you get all the information early on, as soon as
2 possible and you keep the situation contained.

3 Q And is it also a fair statement, sir, that when
4 you're looking at a situation involving the potential
5 removal of passengers, those decisions literally need to
6 be made in a matter of minutes?

7 A Yes.

8 Q We talked a little while ago about the fact
9 that there was an assumption in your reading of the
10 depositions that the passengers in 20D, E and F were
11 traveling together?

12 A I think so.

13 Q From a security professional standpoint would
14 it matter if they were traveling together or not
15 traveling together if all three exhibited suspicious
16 behavior?

17 A As we said earlier, every situation is
18 different.

19 My conclusion would have been, and I wasn't
20 there, but my conclusion would be again from reading the
21 depositions of what happened and when you read multiple
22 depositions they sort of seem to come together. I have
23 no reason to doubt what was said.

24 My assumption would be that these people
25 probably were not -- How can I put it, were not related

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1 in a bad sense in that if I were to do something in a
2 terroristic sense I certainly wouldn't sit three in a
3 row and I certainly wouldn't bring attention to myself.
4 If that call had come to me that is one of the things I
5 would be asking.

6 The other thing that I noted in the
7 depositions, and I could have missed it. I forgot the
8 two hours. I thought it was more like half an hour or
9 something. Again based on my experience and the carrier
10 I was at, I saw nothing to indicate that the security
11 department of American Airlines was ever contacted. In
12 Northwest, as I alluded to I think earlier in our
13 questioning, anything regarding security the SOC would
14 call me. If I was on my way to Tokyo and they couldn't
15 patch through to the plane they would call the deputy.
16 Security would be called.

17 The answer might be after 9/11 we were too damn
18 busy. It wasn't as bad as 9/11, but the Gulf crisis in
19 '92 I stayed at work for a couple of days and slept on
20 the couch. So I know what busy is. So we always either
21 had somebody in the SOC or the SOC patched through so we
22 could get involved in talking to the GSC's.

23 Keep in mind, we trained the GSC's. We trained
24 the inflight security coordinators. In our company in
25 my day, I don't know what they do today, in my day if I

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1 didn't call the captain, the captain would call me or
2 the flight attendants, because if you look back in our
3 Northwest materials in the -- I can't remember what they
4 call them, the book the flight attendants carry with all
5 the rules and the book all the captains carry and the
6 pilots carry there is my work phone, my cell phone, my
7 home phone. I'm available 24 hours a day, 365 days a
8 year, and as I used to tell particularly the flight
9 attendants, if you're worried enough to call me at 3:00
10 a.m., call me at 3:00 a.m. I will be glad to talk to
11 you.

12 As a result of doing that you get very few
13 calls, maybe one a month. A couple of times we were
14 able to help people with the incidents happening in a
15 hotel and God only knows where, something wasn't right.
16 You called the front desk and they called you. Well,
17 call the front desk.

18 All I'm saying is I think it's a whole matter
19 of training and developing policies and procedures that
20 things connect like they should in a very rapid manner,
21 because as you said earlier you only have minutes and
22 whether it's the flight crew or the passengers, any of
23 those things can triple a chain reaction and all of the
24 sudden it's out of your control.

25 Q I'm not sure that we got an answer to my

24 (Pages 90 to 93)

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1 original question, which was from a security
2 professional's perspective whether it would make a
3 difference if the passengers were traveling together or
4 not, and I believe your answer began addressing that by
5 indicating that if you were planning some kind of
6 criminal activity you wouldn't draw attention to
7 yourself by sitting with the other perpetrators?

8 A That's correct.

9 Q So it fair to say that it's immaterial whether
10 they are or are not traveling together in examining
11 whether or not it's a security incident?

12 A From my perspective the fact that they were
13 sitting together would not indicate that -- to me that
14 anything was amiss.

15 I would think to me it would be a factor on the
16 other side of the ledger because what you do is you add
17 up a whole bunch of things and then make a decision. A
18 lot of what they were reported to have been doing to me
19 doesn't make a lot of sense that they were up to
20 nefarious ends, but again I -- I just read the
21 depositions. I can tell you how it affects me.

22 Q Do you recall from the police report that the
23 police stated they were called in concerning passengers
24 in seats 20E and 20F?

25 A I do not.

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1 I know that I recall obviously that they were
2 called. I don't recall the seat numbers.

3 MS. MARIANI: May we have this marked as the
4 next exhibit.

5 (Exhibit 23 was marked.)

6 BY MS. MARIANI:

7 Q Sir, I will show what you has been marked as
8 Exhibit 23 to your deposition.

9 Directing your attention to the second page of
10 that document, does that appear to be the police report
11 that was included in the materials that you reviewed?

12 A It would have been. I mean, I'm not looking
13 through my binder, but if you say it is I have no reason
14 to doubt it.

15 Q Is reference made there, sir, to the seat
16 numbers of the passengers about whom American Airlines
17 was concerned?

18 A Yes, of course.

19 Q What are those seat numbers?

20 A 20E and 20F.

21 Q Do you recall what seat number Mr. Cerqueira
22 was in?

23 A F.

24 Q In your summary of events in the report that
25 has been marked as Exhibit 16, sir, you make reference

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1 to the fact that Mr. Cerqueira was cleared for travel by
2 the state police.

3 What do you mean when you say cleared for
4 travel?

5 A As I recall, they took him to the ticket
6 counter in the terminal and said something to either he
7 and/or the ticket agent there that we're finished with
8 him or something to that effect.

9 Q And do you know whether being cleared for
10 travel by the state police is different from or the same
11 as being cleared for travel by the airline?

12 A Whether or not the passenger is allowed to
13 travel, that is an airline decision, not the police
14 decision.

15 The police could have made a decision to arrest
16 them or deport them or any number of things, but that is
17 not the case. Basically the police said we're finished.

18 Q So from the police perspective the police
19 aren't taking further action, that doesn't necessarily
20 mean he gets to fly on that particular day, is that a
21 fair summary?

22 A Yes, it's a decision that is made by the
23 airline.

24 Q While you were at Northwest is that a decision
25 that you observed happening at any point in time?

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1 A Yes.

2 Q And on how many occasions do you recall that
3 happening?

4 A It's a wild guess, a couple of times a month,
5 not an awful lot.

6 Q But it's fair to say that it was --

7 A It does happen, yes.

8 I guess I'm losing track of the sequence of
9 events. At Northwest generally speaking, I can't say
10 100 percent of the time, but I would have been involved
11 in this incident fairly early on.

12 Q But you do recall as frequently as one or two
13 times a month having circumstance where the police
14 cleared -- said somebody was okay to go from custody or
15 from questioning, but Northwest still made the decision
16 not to let them fly that day?

17 A Oh, not to fly.

18 No, then, I didn't quite understand what you
19 were saying.

20 Q Let me rephrase the question.

21 A No, I understand now.

22 Once or twice a month, I'm guessing, not very
23 often, there is a situation where a person is for one
24 reason or another taken off the airplane and talked to
25 by the police. Sometimes they would be put back on

25 (Pages 94 to 97)

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1 another flight, because in my days we were the on-time
2 airline. I mean, the idea was if there is a decision
3 that has to be sorted out get them off the plane. We're
4 not going to hold the plane for 20 minutes while the
5 police talk to this guy.

6 So yeah, occasionally there would be a
7 situation where you would not rebook.

8 Q Do you recall approximately how many times you
9 didn't rebook on the same day?

10 A Very few times we did not rebook. Most of the
11 times we did not rebook, that I recall -- You know,
12 you're looking over many years. Most of the time if we
13 did not rebook it was because it wasn't a security
14 issue -- Well, security in a sense. It was because the
15 person was intoxicated and we said we're not going to
16 fly you until you're sober.

17 I had one case in Memphis where the woman said
18 dammit, went out and took a cab to DC and there are some
19 bizarre things that happen. Other times they get a
20 hotel room and come back the next day and we rebook
21 them. I mean, that they are sober.

22 I can't recall ever -- You talked about
23 clearing, not clearing. I mean, as I recall the fact to
24 us was if there was a situation and the police came with
25 you to the counter and said hi, here she is, that

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1 indicated that you were -- Our people at the station
2 know the police well enough to know that it's okay,
3 you're okay.

4 Likewise in our situation, either me or one of
5 my people would have been more than likely talking to
6 the police. We wouldn't leave that to the SOC.

7 Q Okay.

8 A Not that the SOC can't do it. If for some
9 reason they couldn't find us. Let's say, the two key
10 people, myself and one other guy were over in Tokyo
11 giving GSC training, maybe they can't get ahold of us
12 because we were out to dinner and our cell phones in
13 those days didn't work in Tokyo. So the SOC has to make
14 the decision. In those days all the directors in the
15 SOC are GSC's as well. So we trusted each other and
16 they generally made a pretty good decision.

17 Q Fair to say that your practices and procedures
18 at Northwest when you left in June of 1995 may have been
19 different from those in place at American Airlines in
20 December of 2003?

21 A I don't know their policies and procedures.

22 Q It's fair to say they may have differed?

23 A They may have been different.

24 Although I can say to clarify that, if you read
25 about the intent and purposes of the GSC and the

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1 inflight security coordinator, and the FAA/TSA says it's
2 pretty clear what the role of those positions are. So I
3 don't know about the crossing the T's and dotting the
4 I's specifically, but I can't believe that they don't do
5 it -- The American, United, Delta, Northwest they all
6 pretty much follow the same game plan.

7 Q Do you recall the testimony of Mr. Cerqueira
8 with regard to being denied rebooking on the date in
9 question?

10 A I don't recall anything specific other than
11 that he was not and they couldn't explain why.

12 Q Do you recall that he was informed -- that he
13 testified that he was informed he could not fly per
14 instructions from systems operations control?

15 A I believe that is what he said. I don't know.
16 I assume that that was said because generally speaking
17 the flying public would have no idea what systems
18 operations control is. So I am assuming he heard
19 something correctly.

20 Q Do you know whether the restriction on flying
21 was in place for that day or for a longer period of time
22 than just that day?

23 A I have no idea.

24 Q Do you know whether Mr. Cerqueira could have
25 flown on American the following day?

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1 A I don't recall.

2 Q Do you know whether Mr. Cerqueira could
3 presently fly on American?

4 A I don't know that.

5 Q Directing your attention to the section in your
6 report entitled qualifications. Under number 2 you
7 indicate that you have worked for the FAA developing
8 aviation security system architecture and define the
9 aviation security concept of operations as an integral
10 part of and essential element of the system
11 architecture.

12 Could you define that for me in laymen's terms?

13 A It's putting together a security system to
14 screen passengers that carry on and their checked
15 luggage in a logical sequence of events and tie that
16 together with the security policies of the FAA, TSA for
17 that matter. Too many times things were sort of
18 incongruent to one another. You put this gadget here
19 and you really wanted to have logical sequence of
20 events.

21 That is easier to do in a new airport than
22 existing airport and that is one of the reasons that we
23 looked at those 30 airports around the world, number 3,
24 to find out what is the better way of implementing new
25 technology and procedures in an old environment. It's

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<p style="text-align: right;">Page 102</p> <p>1 easy when you build a new airport. You just build it 2 right. 3 Q Directing your attention to page 3 of your 4 report in which you cite some conclusions and opinions, 5 I would like to go through each of the opinions with 6 you. 7 First of all, in number 1 you state that Mr. 8 Cerqueira was a victim of racial profiling. On what 9 evidence do you base that opinion? 10 A Again by reading the depositions and what took 11 place I can only -- I can only come to the conclusion 12 that -- because it's a different end than I would have 13 reached was that it had to be the way he looked. 14 Q Why is the only conclusion that you can come to 15 that it was racial profiling? 16 A Because I just eliminated everything else. 17 Q On what basis did you eliminate everything 18 else? 19 A Reading the depositions. 20 Q And what were the other things that you 21 considered? 22 A The whole series of events that took place on 23 how the opinion was formed that he should be removed 24 from the aircraft. 25 Q What specifically led you to the conclusion</p>	<p style="text-align: right;">Page 104</p> <p>1 insignificant events that were chained together to 2 form -- which allowed her to form her conclusion that 3 these people were up to something. 4 Q Do you agree, sir, that it's the series of 5 events that led Flight Attendant Walling to conclude 6 that something may be awry? 7 A I think it was the series of events plus again 8 the statements made in the depositions about their 9 appearance or their foreign accent or some such thing. 10 I think it was a combination of things. I think it did 11 play a role. I think if you and I and Mr. Kirkpatrick 12 were sitting there, I don't think we would have had the 13 same results. That is just my opinion. 14 Q Do you agree, sir, that there are situations 15 where seemingly innocuous events when coupled together 16 in sequence may give rise to security concerns? 17 A That can be possible, and that again is, as I 18 have tried to allude to earlier with profiling, is a 19 system of training and experience. 20 Q Are you aware, sir, of the restrictions placed 21 on lavatory use subsequent to 9/11? 22 A Yes. 23 Q And are you aware, sir, that subsequent to 9/11 24 lavatories have been considered a safety sensitive area 25 of an aircraft because it's an area where an individual</p>
<p style="text-align: right;">Page 103</p> <p>1 that the only possible reason for what occurred to Mr. 2 Cerqueira was racial profiling? 3 A I don't know how I can restate it. I looked at 4 all the events or the things that were stated in the 5 depositions about what raised the concerns and none of 6 those in and of themselves raised a concern and there 7 was something there about the appearance of these 8 people. I can't remember how they put it, again which 9 led me to the conclusion that how they looked based on 10 these other factors led to the conclusion that it had to 11 do with where they were from or where they were thought 12 to be from, that sort of thing. 13 I think there was something said about, might 14 have been said they spoke with an accent or something 15 like that. 16 Q What concerns do you remember being raised in 17 the deposition testimony? 18 A That they were seated together, that Cerqueira, 19 the fellow by the window was perceived to be feigning 20 sleep. The other people were loud and boisterous, 21 wishing people Happy New Year's inappropriately and that 22 sort of thing, that he had, according to Walling he had 23 gotten on the flight before his turn. He had gone to 24 the lavatory. 25 There was a whole bunch of I think</p>	<p style="text-align: right;">Page 105</p> <p>1 is afforded privacy that doesn't exist in the main 2 cabin? 3 A I'm very familiar with lavatories in airplanes, 4 because one of the things that we did in my Northwest 5 days in '92, first Gulf War is that we actually in all 6 of our lavatories and all of our international fleet 7 sealed everything so we could tell whether or not 8 anybody had access to various parts of the lavatory. 9 Most airlines didn't do that. I know 10 lavatories very well. I have been under, around, over 11 and through. I understand how to search. 12 Q Is it a fair statement that someone who spends 13 more time than expected in the lavatory draws attention 14 to themselves? 15 A You know, I don't know what is the term, what 16 an unusual amount of time is. When I read the 17 depositions initially or maybe when he explained what 18 had happened before I even read the depositions I had a 19 feeling for it because I have honestly taken that -- not 20 that flight, a different carrier, but I have taken the 21 6:20 flight out of Boston. I got up at 4:00 and I had a 22 couple of cups of coffee while I shaved and packed and 23 came from downtown to the airport. I was first in line 24 through the checkpoint so they made me a selectee 25 because I'm first in line, don't ask me what that means.</p>

27 (Pages 102 to 105)

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1 So after I dumped all my stuff and barely made the
2 flight, the first thing I did was put my junk in my seat
3 and went right to the bathroom.

4 Q Mr. Cerqueira had been in the gate area,
5 however, for an hour to hour and a half before boarding;
6 is that correct?

7 A I think so.

8 Q Is it fair to say that that is certainly
9 adequate time to make use of a lavatory before boarding
10 a flight?

11 A All I can say is that I do many, many miles a
12 year for many years. Maybe I'm unusual, maybe it's my
13 age or something. It's not uncommon at all for me to be
14 at the airport quite a bit ahead of time, maybe having
15 meetings with airport people, and whatever airport I am
16 in I nose around to look at things. I'm curious what
17 people are doing, which interestingly enough has not
18 aroused any suspicion because I take a lot of pictures.

19 Most times honestly I get on an airplane and
20 the first thing I do is go to the lavatory. I'm
21 normally boarded first because I am a gazillion mile fly
22 guy and I go right to the bathroom because I don't want
23 to do it once everybody else is there. It's just
24 easier. It's part of my routine.

25 So I don't -- I don't find it unusual at all.

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1 Q In your flying experiences, sir, how many
2 people engage in that same pattern of behavior that you
3 do, going to the lavatory immediately upon boarding?

4 A You know, I may be -- I can't maybe give you
5 the answer you want because I'm always upgraded to first
6 and it's pretty common in first class for people to do
7 that and many times when you walk up to the front the
8 captain will be standing there and, you know, they
9 haven't locked the door yet, hi, how are.

10 On Northwest many of them still know me after
11 all these years and we chat and I hit the bathroom. I
12 don't fly coach much so I don't know what really goes on
13 back there. So I think people -- I think if I were
14 flying coach I would have even a greater necessity to
15 hit the lavatory early on again because it gets to be
16 such a zoo back there. I have flown occasionally, but
17 you know --

18 Q When you have flown coach, sir, isn't it true
19 that if you're seated in the middle of cabin where the
20 exit rows are usually located, oftentimes if you go to
21 the lavatory in the back you cannot return to your seat
22 for a considerable period of time because other
23 passengers are boarding?

24 A Yes, it can be a challenge, but that certainly
25 wouldn't keep me from doing it, I will tell you that,

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1 especially if I'm on the window seat because I don't
2 want -- I'm a big coffee drinker. I want to take care
3 of it early on.

4 Q You mentioned in addition to going to the
5 lavatory that Mr. Cerqueira boarded early according to
6 the Flight Attendant Walling.

7 A She thought he boarded early.

8 Q Correct.

9 Do you recall from her deposition testimony
10 that her testimony was that he boarded at a time when
11 the coach cabin was still dark?

12 A I don't recall dark, but as I recall the
13 deposition by Flight Attendant Walling was that he
14 boarded before it was his turn, quote unquote.

15 Q Do you recall that she testified that he
16 boarded before many of the first class passengers had
17 boarded?

18 A Yes.

19 Q And would you agree with me, sir, that boarding
20 significantly before your boarding class has been called
21 is another factor that calls attention to yourself or
22 could call attention to yourself?

23 A When you talk about something about the
24 lighting in the cabin, the lighting is always on, I
25 think, when the aircraft is being boarded. So I'm not

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1 sure where that came from.

2 Secondly, I fly American, United, I fly all of
3 them, mostly Northwest and KLM, but I do fly everybody
4 depending on where I'm going and what the client -- how
5 the client wants to buy the ticket. It's not unusual
6 for -- They make the announcements for first class
7 passengers and then they say, a lot of carriers say, you
8 know platinum or whatever elites can board and exit
9 rows.

10 So I'm not sure that the flight attendant in
11 the back of the airplane really knows what is going on
12 at the jetway.

13 Q Are you familiar with the boarding processes
14 that American had in place as of December of 2003?

15 A No, I'm not.

16 Q Are you aware of testimony in both Mr.
17 Cerqueira's deposition and Flight Attendant Walling's
18 deposition that he approached the gate counter prior to
19 boarding and requested a seat change from Flight
20 Attendant Walling?

21 A Yes, I read that.

22 Q Are you familiar with Flight Attendant
23 Walling's testimony about Mr. Cerqueira's manner?

24 A Yes.

25 Q And what is your recollection of that

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<p style="text-align: right;">Page 110</p> <p>1 testimony?</p> <p>2 A She was concerned, as I recall, that he was</p> <p>3 insistent and that after she explained that she was a</p> <p>4 flight attendant and she couldn't -- I mean, that is</p> <p>5 true that she can't take of that for him, wait for the</p> <p>6 gate agent, he went and sat down and stared at her.</p> <p>7 Q Do you recall her description of his demeanor</p> <p>8 as hostile?</p> <p>9 A I don't remember hostile as much as insistent.</p> <p>10 It could have been. I just don't recall the word</p> <p>11 specifically. I remember insistent being there.</p> <p>12 Insistent may be perceived as hostile, I don't know.</p> <p>13 Q Do you have an understanding as to how many</p> <p>14 years of experience Flight Attendant Walling had as of</p> <p>15 the time of this particular flight?</p> <p>16 A Many years. She definitely wasn't new. I</p> <p>17 don't recall specifically, but she was an experienced</p> <p>18 flight attendant.</p> <p>19 Q Do you recall Flight Attendant Walling</p> <p>20 describing this interaction with Mr. Cerqueira as</p> <p>21 atypical in her experience?</p> <p>22 A Yes.</p> <p>23 Q Is that yet another factor that might draw</p> <p>24 attention to Mr. Cerqueira as a passenger on this</p> <p>25 flight?</p>	<p style="text-align: right;">Page 112</p> <p>1 Attendant Walling at the ticket counter.</p> <p>2 Are there any other concerns that you recall</p> <p>3 being raised in the depositions of the flight crew?</p> <p>4 A Yes, and I list them on page 4 of my report</p> <p>5 under discussion that I don't think we have touched on.</p> <p>6 One was the strange questions to the captain in</p> <p>7 the gate area. I don't think we mentioned that.</p> <p>8 Suspicious behaviors was named a couple of times in the</p> <p>9 deposition, but it was never defined per se in some</p> <p>10 instances where it was used. Yes, that covers it.</p> <p>11 Q So other than the factors listed on page 4, are</p> <p>12 there any other factors that you took into consideration</p> <p>13 in coming to the conclusion that the concerns were</p> <p>14 insufficient to justify a conclusion of anything other</p> <p>15 than racial profiling?</p> <p>16 A No, those are what I believe.</p> <p>17 Q When you use the term racial profiling in the</p> <p>18 context of your report, how do you define that term?</p> <p>19 A I believe in this case it has to do with</p> <p>20 appearance.</p> <p>21 The problem with that sort of thing obviously</p> <p>22 is unless you're familiar with certain parts of the</p> <p>23 world you can't tell one ethnic group from another and</p> <p>24 so you make assumptions that many times aren't correct.</p> <p>25 Q Do you have any understanding as to the flight</p>
<p style="text-align: right;">Page 111</p> <p>1 A Yes, but as we said earlier on perception is</p> <p>2 reality. So yes, I have no reason to doubt where she</p> <p>3 was coming from at that point in time.</p> <p>4 Q You testified that the concerns about which the</p> <p>5 flight crew testified were in your mind insufficient to</p> <p>6 substantiate any kind of reason for removal of Mr.</p> <p>7 Cerqueira from this flight other than that of racial</p> <p>8 profiling?</p> <p>9 A Yes.</p> <p>10 Q Are there any other concerns raised by the</p> <p>11 flight crew in their depositions upon which you relied</p> <p>12 in making that assessment?</p> <p>13 A I'm sorry, one more time.</p> <p>14 Q Sure.</p> <p>15 You testified that in your view the concerns of</p> <p>16 the flight crew were insufficient to support any other</p> <p>17 conclusion than that Mr. Cerqueira was a victim of</p> <p>18 racial profiling, and the concerns that you named for me</p> <p>19 were that the three passengers removed were seated</p> <p>20 together, Mr. Cerqueira was feigning sleep or appeared</p> <p>21 to be feigning sleep, the passengers seated next to him</p> <p>22 were loud and boisterous and inappropriately wishing</p> <p>23 people Happy New Year, that Mr. Cerqueira boarded early,</p> <p>24 that Mr. Cerqueira went to the lavatory, and we have</p> <p>25 also discussed the fact that he approached Flight</p>	<p style="text-align: right;">Page 113</p> <p>1 experiences of any of the members of the flight crew in</p> <p>2 terms of the destinations and airports that they had</p> <p>3 served?</p> <p>4 A I have no knowledge of their international</p> <p>5 experience, although I can't recall to the best of my</p> <p>6 recollection that American is a big operator in the Mid</p> <p>7 East.</p> <p>8 Q Do you have any understanding as to whether</p> <p>9 American has significant operations in South America?</p> <p>10 A Yes, they do.</p> <p>11 Q Do you have any understanding as to whether</p> <p>12 Captain Ehlers had flown international routes?</p> <p>13 A To tell you the truth I never gave that much</p> <p>14 thought. What was he flying? I can't remember the</p> <p>15 airplane.</p> <p>16 Q To be honest, sir, I don't remember off the top</p> <p>17 of my head either, but we can certainly find that</p> <p>18 information in the records.</p> <p>19 A I guess it's immaterial. Sometimes you can</p> <p>20 tell by the type of aircraft that they fly, but I</p> <p>21 never -- That wasn't a consideration.</p> <p>22 Q Was the international flight experience of any</p> <p>23 of the flight attendants a consideration that you took</p> <p>24 into account?</p> <p>25 A No, it was not.</p>

29 (Pages 110 to 113)

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<p>1 Q Do you have any understanding of the racial 2 composition of flights originating from Boston? 3 A Varied. 4 Q Do you have any understanding -- 5 A I know that because I have spent a lot of time 6 in Boston with the Northwest operation going to Europe. 7 Q Do you have any understanding as to the 8 composition of the passenger group on December 28th, 9 2003 with respect to race or ethnicity? 10 A I have not seen that. I have not seen anything 11 that gave any indication of what that was. 12 Q So is it fair to say, sir, that you don't have 13 an understanding as to how many people of Middle Eastern 14 descent were on that flight? 15 A No idea. 16 Q Have you ever seen Mr. Cerqueira? 17 A I have never seen him. I haven't talked to him 18 or seen a picture of him. 19 Q Have you ever seen pictures of the two 20 gentlemen seated in seats 20D and E? 21 A I'm unaware of any pictures. I don't know if 22 there are any pictures. I have read the descriptions. 23 Q What do you recall about those descriptions? 24 A I don't recall the words specifically, but the 25 word foreign was mentioned and also the word accent.</p>	<p>1 A Yes, that is true. 2 Q Fair to say that a number of resident of the 3 Houston Texas area have a different type of accent? 4 A Um-hum. 5 Q Is that a yes, sir? 6 A That is a yes. 7 Q Is it fair to say that residents of New York 8 City frequently have a certain type of accent? 9 A Right, but the series of events taking place on 10 this particular day and time, I don't think a Texas 11 accent would have sparked concern. 12 Q Fair to say that people who reside in South 13 America may have a different type of accent? 14 A They may. 15 Q And the same holds true for Canada; true? 16 A Yes. 17 Q How about Asian residents? 18 A Yes. 19 Q And Africa residents? 20 A Yes. 21 Q Is it fair to say, sir, that without further 22 clarification we don't know what type of accent the 23 flight attendant purportedly overheard on the day in 24 question? 25 A I repeat what I said earlier, based on 9/11 and</p>
Page 115	Page 117
<p>1 Q Do you recall testimony to the effect of the 2 flight crew learning that two of the people seated in 3 row 20 were foreign nationals after they were removed 4 from the flight? 5 A Yes. 6 Q Are you aware of testimony to the effect that 7 the flight crew cannot distinguish what they knew about 8 whether these people were foreign nationals because they 9 later learned they were foreign nationals? 10 Let me rephrase that question before we receive 11 an objection from Mr. Kirkpatrick. 12 Are you aware of the fact that one of the 13 flight attendants testified that the reason she 14 testified at deposition that she believed they were 15 foreign nationals is because she learned from the state 16 police that they carried foreign passports? 17 A I don't recall that. 18 Q Do you recall any information in the 19 depositions that you read that indicates what type of 20 accent one of the flight attendants overheard? 21 A All I recall is accent. I made the assumption 22 based on the whole series of events, of history since 23 9/11 that the accent probably was not Swedish. 24 Q Fair to say that a number of residents of the 25 greater Boston area have a particular accent?</p>	<p>1 the history of what has happened post 9/11, reading the 2 report and the depositions I made the assumption that 3 when they mentioned an accent it was probably not a 4 Canadian accent, it was probably not a Bolivian 5 accent. It was probably an accent that concerned them. 6 Q In your mind an accent that concerns them would 7 be a Middle Eastern accent; is that right? 8 A Something they perceived to be a Mid East 9 accent. The problem is unless you're familiar with that 10 part of the world you could certainly be misled or come 11 to the wrong conclusion. 12 Q Is it fair to say you don't have any 13 understanding of what each of the flight crew's 14 experiences were with people of different ethnic and 15 national backgrounds? 16 A I don't know that. 17 Q Are you familiar with testimony by the American 18 Airlines personnel aboard flight 2237 regarding American 19 Airline's position on discrimination? 20 A Comments they made in their depositions when 21 they were interviewed? 22 Q Yes. 23 A Yes, I remember some comments. 24 Q What do you recall about those comments? 25 A That they didn't recall that they had received</p>

30 (Pages 114 to 117)

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<p style="text-align: right;">Page 118</p> <p>1 training in those areas.</p> <p>2 Q Do you recall the flight attendants and captain</p> <p>3 stating that American Airlines does not tolerate</p> <p>4 discrimination?</p> <p>5 A I don't remember, but I remember some of them</p> <p>6 saying, one was Walling saying she doesn't recall ever</p> <p>7 receiving training in that regard. That doesn't mean</p> <p>8 that she did, but I remember in the depositions she was</p> <p>9 asked that specifically and she said she didn't recall</p> <p>10 anything.</p> <p>11 Q Do you recall any discussion by the flight</p> <p>12 attendants and Captain Ehlers about whether ethnicity,</p> <p>13 race, religion and other factors like those can be taken</p> <p>14 into account when making denial of boarding decisions?</p> <p>15 A I don't recall that being said.</p> <p>16 Q In reviewing the depositions did you note that</p> <p>17 Flight Attendant Malankovich testified that their</p> <p>18 training involves looking for unusual behaviors?</p> <p>19 A I don't specifically recall that.</p> <p>20 Q In your experience within the aviation</p> <p>21 industry, is it a fair statement that one thing on which</p> <p>22 flight attendants are trained is the observation of</p> <p>23 unusual behaviors?</p> <p>24 A I'm not familiar with specific training that</p> <p>25 flight attendants overall receive in what you refer to</p>	<p style="text-align: right;">Page 120</p> <p>1 person might be profuse sweating, but it also might mean</p> <p>2 that the person was sick. One person may withdraw, one</p> <p>3 person may be boisterous. There is no one thing at all.</p> <p>4 It's a whole combination of things. There are things</p> <p>5 that you can do, I believe, to resolve or help resolve</p> <p>6 those sorts of situations if you think the person in</p> <p>7 22A, I'm really concerned about. One of the things that</p> <p>8 I always taught people for the flight attendant to have</p> <p>9 the captain call the SOC and have them run the PNR and</p> <p>10 see who this guy or woman is. You get a lot of</p> <p>11 information out of a PNR, particularly if you're</p> <p>12 concerned about sabotaging the aircraft, that sort of</p> <p>13 thing, post 9/11 concerns. If the person is, for</p> <p>14 example, in Minneapolis a 3M employee and a million</p> <p>15 miler, I don't care if they are sweating profusely. He</p> <p>16 is probably sick, but he has to be at a meeting. I have</p> <p>17 flown sick before and look like hell, but you have to be</p> <p>18 there. It's not as easy as that.</p> <p>19 Q Do you have any indication as to whether the</p> <p>20 PNR's were checked in this case?</p> <p>21 A I saw nothing to indicate that.</p> <p>22 Q Did you see anything to indicate that they</p> <p>23 weren't?</p> <p>24 A No, it was not addressed.</p> <p>25 Q Directing your attention to the second</p>
<p style="text-align: right;">Page 119</p> <p>1 as unusual, is that it, unusual behavior?</p> <p>2 Q Yes.</p> <p>3 A There may be -- There may have been some</p> <p>4 training -- You know, prior to 9/11, a couple of years</p> <p>5 there was a number of incidents of air rage, what is</p> <p>6 referred to as air rage and there had to be action taken</p> <p>7 to kind of let people know that that wasn't appropriate.</p> <p>8 To my understanding flight attendants, fly</p> <p>9 crews received some training in that regard, but to my</p> <p>10 knowledge they have never received any training as to</p> <p>11 the identification, recognition of unusual behavior that</p> <p>12 could indicate terrorists.</p> <p>13 It's not inconceivable that something could</p> <p>14 have happened after 9/11 that I'm not aware of, of</p> <p>15 things to look for. I don't know that.</p> <p>16 Q How would you define unusual behavior as an</p> <p>17 aviation security professional?</p> <p>18 A With regard to --</p> <p>19 Q With regard to onboard passenger activity?</p> <p>20 A There is really -- If I was on the flight and I</p> <p>21 was watching to see what was taking place, like an air</p> <p>22 marshal kind of thing, and I was looking to see what was</p> <p>23 happening to say I'm concerned about that person, there</p> <p>24 is no one thing. That is what is so dangerous about</p> <p>25 that sort of thing, because unusual behavior for one</p>	<p style="text-align: right;">Page 121</p> <p>1 conclusion and opinion identified in your report, you</p> <p>2 state that racial profiling does not make air travel</p> <p>3 safer.</p> <p>4 What evidence do you have to support that</p> <p>5 opinion?</p> <p>6 A I think if you clearly -- if you look at the</p> <p>7 numbers involved, and a good example for us, for me</p> <p>8 would be Detroit where you have several hundred --</p> <p>9 300,000 people of Mid Eastern extraction. I just</p> <p>10 don't -- I can't conceive of what racial profiling would</p> <p>11 mean. I think it's meaningless.</p> <p>12 I think there can be hysteria and say well, you</p> <p>13 know, a lot of my friends who I consider to be pretty</p> <p>14 intelligent people say well, why don't we screen, extra</p> <p>15 screen every Arab, dammit. We have all heard those</p> <p>16 things, and I try to explain what do you do in a place</p> <p>17 like Detroit where every flight has many, many people</p> <p>18 that appear to be that extraction. They might be second</p> <p>19 or third generation Americans. They are about as Arabic</p> <p>20 as you and I are, but I think it's a very dangerous</p> <p>21 approach to take. I'm not sure I answered your</p> <p>22 question.</p> <p>23 Q Are there any specific treatises or</p> <p>24 publications on which you rely in making the assertion</p> <p>25 that racial profiling does not make air travel safer?</p>

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1 A One of the books there deals with it that
2 section that I gave you. There is a whole chapter on
3 racial profiling and they give some pretty good examples
4 of why it doesn't work.

5 Q In addition to the materials that we have
6 discussed earlier, are there any other treatises or
7 publications on which you rely in asserting that racial
8 profiling does not make air travel safer?

9 A Nothing specifically that I read prior to
10 writing this report. There has been a very good
11 commentary in the New York Times just recently on the
12 subject by a law professor from the University of
13 Chicago which explains a lot better than I can why it
14 doesn't work, but I didn't read that -- I would have
15 included it here, but I didn't read it until just
16 recently when it came out.

17 It's a very -- I'm not against profiling at
18 all. We do it all the time and call it something else
19 in all areas of our lives, but again I think there is a
20 lot better ways -- Let me put it this way. I don't
21 think we should use it as a primary screening device. I
22 think it's something to be considered down here some
23 place, but not right up front.

24 When you take it to the extreme I think it goes
25 back to the '50s and '60s of my early police days when

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1 there was a lot of racial profiling based on the
2 color -- if you were an African American. I thought we
3 had gotten beyond that, and my real concern as I see
4 events unfold is that I hope we don't -- I understand
5 people's concern. We all have a concern, but at the
6 same time let's make sure that we do it the right way
7 and that we're not causing people problems.

8 I mean, I know a senior captain from United.
9 After I left Northwest I had a contract for three years
10 with ALPA, Airline Pilot's Association, consulted them
11 on security issues for all ALPA airlines. There is what
12 is called the security committee of ALPA, two senior
13 pilots from each carrier, and one of the representatives
14 from United was a very senior captain, 27 years, about
15 ready to retire Egyptian, and even after '92 with the
16 Gulf War he was always hassled, even in uniform because
17 he looked very Semitic.

18 I used to say he had a better attitude than I
19 do. I would get sick of it. I'm a captain of United
20 Airlines. I'm not the threat. I think we have to be
21 very careful.

22 Q Directing your attention to conclusion number 3
23 you state that Mr. Cerqueira's behavior did not indicate
24 a security threat.

25 Is there any evidence that we have not

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1 previously discussed which supports your conclusion that
2 he did not constitute a security threat?

3 A I don't think anything that occurred in and of
4 itself indicated that he was a threat, and furthermore I
5 think the fact that he was questioned by the police and
6 then returned to American I think kind of clearly shows
7 he is not a threat. Unless there is something that I'm
8 totally missing I just don't see why he wasn't put on
9 the next flight and probably upgraded.

10 Q You testified earlier that your assessment of
11 the situation was that there was no other conclusion
12 that could be drawn, but that he was a victim of racial
13 profiling; is that correct?

14 A I think it played -- I think it is what tipped
15 the scales.

16 Q When you say tipped the scales, what do you
17 mean?

18 A I think there was -- Like I said in my report,
19 I think I said this, there was a series of innocuous
20 incidents that when combined and then also looking at
21 him sort of made people very concerned.

22 Q You have never seen him, though; is that right?

23 A No.

24 Q You don't know how other people perceived him,
25 do you?

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1 A I don't even know what he looks like.

2 Q So is it fair to say that you don't know how
3 other people perceived him to look; is that correct?

4 A I wasn't there, that's correct.

5 Q Is it fair to say that other people could
6 interpret those innocuous events in a manner different
7 from you?

8 A Other people could, and as I have alluded to
9 earlier I believe based on experience and training you
10 want to try to put those variables in a logical sequence
11 so you don't get carried away by the events.

12 Q Is it fair to say that another person with
13 experience in the aviation security business could come
14 to a different conclusion than you?

15 A You can always come to multiple conclusions and
16 I'm sure you will find somebody who does. I mean, yes,
17 but I can also say what I wrote here is what I believe
18 based on reading the depositions and the conclusions the
19 American Airlines people came to in good faith, I think,
20 were not the conclusions I believe were the correct
21 conclusions.

22 Q Anything else that leads you to the conclusion
23 that Mr. Cerqueira's behavior did not indicate a
24 security threat other than what we have previously
25 discussed?

32 (Pages 122 to 125)

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1 A That his behavior did not --
 2 Q Constitute a security threat?
 3 A No.
 4 Q We have talked a little bit about a quote
 5 unquote innocuous series of events and that leads us to
 6 your next conclusion, which if I'm reading your report
 7 correctly states, "Because the situation was mishandled
 8 an innocuous series of events was allowed to turn into a
 9 security incident."
 10 I want to break up that conclusion into a
 11 couple of separate parts, if you don't mind.
 12 A Sure.
 13 Q First of all, what evidence do you have upon
 14 which you base the statement that the situation was
 15 mishandled?
 16 A Mishandled might have been -- might be just a
 17 little strong. I'm trying to think of another word for
 18 that. I believe that if the GSC would have been called
 19 early on and been sort of a neutral party coming onto
 20 the scene, I think the thing probably could have been
 21 diffused a bit sooner.
 22 I think by letting things perk along for a
 23 while, like I said earlier, I have seen a lot of these
 24 situations they do develop a life of their own. It
 25 sounds trite, but once the horse is out of the barn it's

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1 hell getting it back. I have been on the phone
 2 listening to it fall apart on the other end. There is a
 3 reason there is a GSC and I think it could have been
 4 handled better.
 5 Q Do you know how soon into the incident the GSC
 6 was contacted?
 7 A I don't remember minutes, but I just recall
 8 reading in the depositions in my opinion it was quite
 9 far along by the time the GSC showed up.
 10 Q Do you know how long the total series of events
 11 transpired?
 12 A I don't recall.
 13 Q So is it fair to say that you don't have an
 14 understanding as to whether what transpired happened in
 15 10 minutes or 30 minutes?
 16 A No, I think it was closer to 30 than 10. They
 17 took a major delay because they got everybody off the
 18 airplane.
 19 Q But as of the time that the decision was made
 20 to contact the GSC, do you have any understanding of how
 21 long the incident had been in progress?
 22 A I don't want to say 10 minutes or 15 or 18, but
 23 again reading the depositions I thought why didn't they
 24 call the GSC right away. When you realize it is going
 25 south, get the GSC right now.

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1 It's always better sooner than later. You
 2 talked about err on the side -- We always told people to
 3 err on the side of GSC right now, get them down. They
 4 have more training than the other people and they know
 5 the law enforcement. They are the people that deal with
 6 these situations, not just this but all kinds of
 7 situations. Get them involved.
 8 Q In addition to getting the GSC involved, what
 9 other steps, if any, do you think could have been taken
 10 that might have prevented this from spiraling as you, I
 11 believe, testified?
 12 A I saw nothing in the paperwork that I have seen
 13 that indicated, and I think I mentioned this earlier,
 14 that anybody in the security apparatus, I'm talking
 15 about corporate, at American was involved.
 16 Q Do you know whether American requires
 17 involvement of corporate security in such incidents?
 18 A I don't know their policy and procedures. I
 19 don't know what tips the scale, now you call corporate,
 20 now you don't. I don't know when SOC at American calls
 21 corporate security and when they don't. Maybe they
 22 don't, but again the idea behind calling the corporate
 23 or having SOC plug in the security people is that they
 24 are people with a security background that have far more
 25 experience than the fly crews.

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1 Q Directing your attention to the bottom of page
 2 4, you have listed in bullet points a number of various
 3 things that you believe could have been done to prevent
 4 the situation from escalating.
 5 You mentioned that the no fly list could have
 6 been checked. Isn't the no fly list checked before a
 7 passenger even boards?
 8 A Yes, it is.
 9 Q What would be the purpose of checking the TSA
 10 no fly list again?
 11 A I would check it again just to make sure there
 12 wasn't a mistake. I don't trust computers.
 13 Q It would essentially be a redundancy; is that
 14 correct?
 15 A Something may have happened since they spun the
 16 names through the machine. I just think it's good
 17 practice to always look a second time.
 18 Q We talked a little bit before about how you
 19 don't see any evidence in the records as to whether or
 20 not the PNR's were checked or were not checked for the
 21 three passengers; is that correct?
 22 A I didn't see anything indicating that. I think
 23 if -- Again I said what I thought. If they had checked
 24 I think they would have seen these people. There is no
 25 indication they are together.

33 (Pages 126 to 129)

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1 Q As you testified before, learning whether they
2 were or were not together was not of particular
3 significance; is that correct? Actually strike that.

4 I believe you testified before that to you it
5 would be of more significance if they were not traveling
6 together than if they were; is that correct?

7 A To me, yes.

8 Q What would checking the PNR status of Mr.
9 Cerqueira and the other passengers have done if the
10 conclusion already been drawn that their behaviors were
11 suspicious?

12 A From reading the depositions, my understanding
13 of the way they formed part of their opinion or the
14 conclusion that they came to was that these guys were
15 traveling together and they listed all this stuff.

16 If they looked at the PNR they would see that
17 they weren't traveling together. I think -- I mean, I
18 think that would help -- to me that would help diffuse
19 it from their perspective.

20 Q As you have testified earlier, even if they
21 weren't traveling together your suspicions might
22 actually be heightened if they were not; is that
23 correct?

24 A Right, but I'm looking at it from their
25 perspective because several of them made comments that

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1 they were traveling together, but see I'm coming at it
2 from a different perspective than they are.

3 Q Directing your attention to the next bullet
4 point in your list here, you state that checking with
5 knowledgeable ground staff would have shown that exit
6 row seats are assigned by station personnel.

7 Of what significance is that to your opinions?

8 A You can't go up to the gate agent and say I
9 would like an exit row seat because I want a seat that
10 goes back further. They assign the seat. People don't
11 come up and say I want seat 20F. I guess you could, but
12 I have never seen it done that way. I don't know it to
13 be done that way, because for one thing you don't
14 know -- as a passenger you don't know even if there are
15 seats available.

16 So generally if I were to get stuck back there
17 I always say I want an exit row seat and they tell you
18 where to sit.

19 Q So is it fair to say that that is of
20 significance to your conclusions in so far as it
21 establishes that they were not traveling together?

22 A Well, because again we're -- I'm looking at it
23 differently than they are. I was trying to look at how
24 I thought they formed the opinion they did, and they
25 thought well, they were traveling together and he

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1 requested the seat.

2 The flight attendant I don't think understands
3 how exit row seats are assigned. Airlines are pretty
4 compartmentalized. You might be a 15, 20, 25-year
5 flight attendant or pilot and have no idea about key
6 components of how the whole thing comes together.
7 Really they don't. That is not a fault. It's just not
8 something they do. So there were assumptions made that
9 he tried to sit with these people, which I don't think
10 was true.

11 Q And checking with the ground staff would have
12 shown that those exit row seats were assigned
13 separately?

14 A Yes, the PNR would show that.

15 Q You also indicate that a computer check would
16 have shown that Mr. Cerqueira was an elite member of the
17 frequent flier program. Why was that of significance?

18 A Again I think, I believe that history has shown
19 that a terrorist is not an elite flier.

20 Q Do you have any information suggesting that
21 American did not check Mr. Cerqueira's frequent flier
22 status?

23 A I do not, but I have nothing to indicate that
24 they did either, so --

25 Q You testified earlier that you believe that the

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1 ground security coordinator could have been summoned to
2 the aircraft sooner and had time to sort out the facts
3 and provide input to the captain.

4 Anything else that you have not previously
5 mentioned that is pertinent to your opinions on that
6 particular subject?

7 A No, I think we have covered that. I mean,
8 there is a definite -- in the training there is a
9 definite relationship between the ground security
10 coordinator and the inflight security coordinator that
11 are clearly defined in training. I just believe they
12 should have used the resources of the GSC sooner.

13 Q The next item you have listed here is that the
14 captain could have independently verified the available
15 facts, discussed the situation with the GSC and
16 attempted to calm down the flight attendants.

17 What could the captain have investigated
18 personally?

19 A He or she, I guess it's a man, he should not
20 have gone back in the aircraft obviously. They are
21 taught that especially after 9/11, but the role of the
22 captain, he is kind of the leader of the team and the
23 role of the captain is to get all the facts from various
24 sources and make a value judgment based on facts. Again
25 if you do not get things sorted out early on it falls

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1 apart.

2 The very good captains that I have observed in
3 my Northwest days I flew to Asia ten days out of every
4 month because we have 31 airports over there, and I
5 generally would go on the aircraft early with the crew
6 and I would listen to the captains brief the crew, and
7 there is a whole range of abilities of captains, believe
8 me, but a good share of them are pretty darn good at
9 getting the people all together and having a little
10 chat, because they are always different, and
11 establishing the pecking order and you let them know
12 clearly I'm in charge and I want to know what is
13 happening and I'm always open blah, blah and then they
14 also talk about security issues, and one of the things
15 that we did at Northwest is we came up with weekly and
16 then in times of crisis damn near hourly briefings for
17 the captains, not for the flight attendants, for the
18 captains because that is the person in charge. That is
19 the inflight security coordinator, and I have heard many
20 of these people and they are wonderful. They really can
21 take 15, 18 flight attendants and tell them, you know,
22 this is how we are going to operate and this is why and
23 this is what I know and blah, blah, blah, and it's real
24 important.

25 Q Was there any testimony that you read that

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1 indicates what Captain Ehlers did or did not do before
2 passengers began boarding flight 2237?

3 A There is nothing there as to that.

4 Q Based on your recollection of the testimony, is
5 it fair to say that Captain Ehlers collected information
6 from Flight Attendants Walling and Sergeant after he had
7 independent concerns of his own?

8 A He had independent, as I understand it from the
9 depositions, he had concerns about what happened with
10 the two fellows, the ponytail in particular, as I
11 recall, prior to coming on the aircraft. I think the
12 putting the groups together I think that was done by
13 talking with Flight Attendant Walling.

14 Q So is it fair to say there was an exchange of
15 information among the captain and the flight attendants?

16 A Yes.

17 Was it adequate and early enough, that is where
18 I have some concern.

19 Q When you say --

20 A And I will admit there is a vast difference
21 between a 747 400 crew flying to Tokyo than a domestic
22 flight. It takes more time to board, they board the
23 crew earlier, you have more time, you know, but that
24 being said again I think it's important that the captain
25 clearly -- that it's clearly understood by the flight

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1 attendants that the captain is there to help sort things
2 out and call me sooner rather than later. I don't see
3 anything that indicates that.

4 Q When you state that your concerns are with the
5 adequacy and the timing of the communications, what are
6 those specific concerns?

7 A It seems to me again as I said earlier that the
8 sooner the flight -- the GSC could have been called, it
9 could have been a neutral party to sort it out. I think
10 it could have been sooner. It should have been sooner
11 than later when it was. At the same time, there is
12 nothing in the depositions that makes it clear to me
13 that the captain was getting enough information for all
14 the people to make a determination. I think it just
15 spun away from him.

16 Q In your experience is the captain entitled to
17 rely on the observations of his flight attendants in
18 making decisions?

19 A The captain has no choice because they are the
20 ones back there where it's happening and again post 9/11
21 the captain -- even pre 9/11.

22 For example on our -- Because we in Northwest
23 we went to A-320s and we had the largest A-320 fleet in
24 the world, two man cockpits and it was very clear in our
25 training that the captain, pilots do not leave the

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1 cockpit. You don't go back and help sort out the fight.
2 You just don't do that. That is pre 9/11.

3 So no, he or she, the captain has to rely on
4 what they are getting and ask the right questions and
5 again to me that is a function of leadership.

6 Q Anything else that Captain Ehlers could have
7 done or should have done in your assessment on the date
8 in question?

9 A I think we have covered it.

10 Q You also indicate that Captain Ehlers should
11 have calmed the flight attendants. What in the
12 materials that you have reviewed suggests that they were
13 in need of calming, for lack of a better expression?

14 A Again from reading the depositions it seemed to
15 me that this series of events was leading to -- It was
16 growing and growing as it progressed over a matter of
17 10 minutes or whatever, 15 minutes.

18 It's very important -- It's very important to
19 talk to the flight attendants, for the captain to talk
20 to them, and as I say calm people down because I have
21 been involved in these things. They do get a life of
22 their own and it's very difficult.

23 So you need to deal with facts and listen. I
24 have been involved in these situations and it's very
25 critical that you get the right people involved early on

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1 so they don't get out of control, because once people
2 start getting frightened and then the crew is going to
3 walk on you, then you have all kinds of other issues and
4 sometimes, to be fair to Captain Ehlers and I don't
5 know, sometimes it's beyond your control.

6 By the time Flight Attendant Walling called
7 him, I don't know this, but she may have -- The flight
8 attendants may very well have talked among themselves
9 and decided we're not flying this thing. There has been
10 a number of those, too, that is based upon I don't like
11 the way the guy looks. So a lot of it comes down to the
12 way the captain handles the situation. Sometimes you
13 can win them. Sometimes there is no way. They are not
14 going to fly.

15 Q Is there anything in the record that indicates
16 that Captain Ehlers did not calm the flight attendants
17 down, if in fact they were in need of calming?

18 A I'm a little uneasy with the word calming, but
19 you want to downplay the emotion is what I'm saying.
20 Let's just take a deep breath and count to three and
21 then talk about it some more and that comes down again
22 to leadership, and sometimes it's out of your control by
23 the time the captain picks up the headset, nothing the
24 captain can do at that point.

25 Q Is there anything in the record that suggests

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1 that he didn't have them on the three count as you have
2 just described?

3 A I don't know. There is nothing to indicate
4 that he did so I'm assuming that he didn't.

5 Q Directing your attention back to your report,
6 you next mention if additional questioning was needed
7 the three passengers in the exit row could have been
8 escorted from the aircraft by ground personnel and thus
9 avoided the state troopers from boarding the aircraft
10 and alarming the other passengers.

11 How would that have made a difference in the
12 overall situation?

13 A When you're waiting to push back and uniform
14 police come on and, you know, take three people off the
15 airplane, things are going to fall apart on you.

16 I would have had the GSC come on, say I need to
17 talk with you a second, can you please step in the
18 jetway.

19 Q Do you have an understanding as to whether or
20 not the door had been closed before contact was made
21 with the GSC?

22 A I don't recall.

23 Q Would that make a difference in whether the
24 state police responded if the door had been closed?

25 A Well, I don't see why. You know, the way it

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1 works is the GSC oversees the aircraft until the door is
2 closed. That is the way it's supposed to work. The
3 captain, first officer they have their own concerns.
4 They have plenty to do.

5 So the GSC should take care of all that stuff
6 in the back. When the door is shut on an international
7 flight in particular, the requirements are that the
8 GSC -- On a domestic flight the GSC's are assigned by
9 concourse. So they could have 15, 20 flights. They are
10 there to oversee and called if there is an issue.

11 On an international flight the GSC literally
12 hands off the aircraft to the inflight security
13 coordinator, I mean literally. So there is a real
14 difference. When the door shuts then it's the inflight
15 security coordinator.

16 The fact, I guess what you're alluding to, I
17 mean from what you're saying the door was shut and they
18 decided to open it, maybe because that had happened then
19 it formed an opinion that the situation was more dire
20 than it was. I don't know that.

21 Q Once the door is closed, if it's going to be
22 reopened doesn't the tower need to be notified?

23 A I don't know ground control. All airports are
24 different. I don't know what happens in Boston. You
25 know, as various things happen you hand off.

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1 For example in Detroit when you shut the door
2 to push back, tower has nothing to do with it.
3 Northwest has its own tower. The tower doesn't pick up
4 the flight until you get in the active taxiway, not in
5 the alley. We own the alley. It's not theirs.

6 So I don't know how Boston -- We fly out of
7 Boston, I say we, Northwest. I don't know exactly what
8 American does at Boston or Chicago. I imagine if you go
9 to O'Hare American operates just like Northwest does in
10 Detroit because they are so big. They probably control
11 their own alleys. FAA doesn't do that.

12 Q Directing your attention to the second to the
13 last statement on your list of things that could have
14 been done differently, you indicate that the SOC and
15 CCROS should have provided guidance to the captain as to
16 how to deal with the situation.

17 What in your assessment could the SOC or CCRO
18 have done differently?

19 A I think the SOC and the CCRO would have
20 provided, by bringing in the right people and my
21 question to you earlier was where are the security
22 people, corporate security, bring in the people that
23 have a little bit more specific knowledge of what is
24 happening to help you sort it out.

25 The captain is going to make the final

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<p style="text-align: right;">Page 142</p> <p>1 decision, no doubt about it. That is the way it is, but 2 the whole role of the SOC and all the corporate entities 3 are there to help the captain do his job. Maybe they 4 were involved, but I saw nothing in the depositions to 5 so indicate that either one was involved. 6 Q Do you have a sense from your experience at 7 Northwest as to how many situations an SOC or a CCRO are 8 involved in on a daily basis? 9 A Security situations? 10 Q Security situations. 11 A It depends on what is happening in the world. 12 As I mentioned earlier, during the first Gulf 13 crisis we were averaging about eight bomb threats per 14 hour because it brings -- When you have a crisis in the 15 world and the missiles are shooting over there, it 16 brings all kinds of crazies out and people are just 17 calling. Like I said, eight or nine an hour and, you 18 know, we -- It was all people just raising, trying to 19 cause confusion as far as we were concerned which proved 20 to be right. 21 So again it just varies dramatically. No 22 security incidents for eight or ten hours maybe and then 23 there can be a couple of minor hiccups and then other 24 times the phone doesn't stop. 25 Q Is it fair to say CCROs and SOC's deal with</p>	<p style="text-align: right;">Page 144</p> <p>1 documents, if they exist, an SOC or a CCRO may not have 2 a particular memory of a certain incident because they 3 handle them on such a regular basis? 4 A You mean the particular guy in the SOC that is 5 talking on the phone? 6 Q Correct. 7 A No, that is good question because I'm just 8 trying to be honest with you. 9 At Northwest all those pink slips would be 10 collated regarding a particular incident in flight. I 11 honestly don't know. Everything was computerized at the 12 SOC. So how -- I can't honestly say how they correlate 13 or collate this pile of pink slips that came from the 14 captain and flight attendants, exactly what is attached 15 to that in the SOC at Northwest, I can't tell you. 16 I think that -- I think I'm correct in saying 17 that there is a director in charge. I think what the 18 director does is keep a log, but I don't -- See, I 19 wouldn't see the log. I don't recall that I have ever 20 seen the log other than to see a stack of this is a 21 certain incident, this is a certain incident over at the 22 SOC. I don't know how much detail the director goes 23 into who said what to who. I don't know that, but I 24 know the incident is logged. 25 Q So the incident may be logged, but the SOC or</p>
<p style="text-align: right;">Page 143</p> <p>1 security issues on a daily basis? 2 A Yes. 3 Q Is it fair to say over a period of two and a 4 half years one may deal with so many of these incidents 5 that you don't have a particular memory of a particular 6 incident? 7 A I don't know what American does. 8 The way that is done at Northwest is when the 9 incident such as this happens the captain, flight 10 attendants, everybody involved, I don't recall seeing 11 this in the binder, they fill out what we call a pink 12 slip, and you describe what happened in one page, and 13 you send those -- Those go to the SOC immediately. I 14 mean as fast as they can get there. 15 So overnight anywhere in the world they are 16 there in the SOC and then the SOC looks at it, says it's 17 a safety issue, a security issue, whatever, and then 18 they zing it off to all the appropriate departments and 19 we were required to answer within 24 hours what the 20 ramifications were of that incident so everybody could 21 learn from it. That is what we did. 22 So if this had happened in a Northwest flight 23 you could pull all those documents and see what 24 everybody did. 25 Q Is it fair to say that even pulling those</p>	<p style="text-align: right;">Page 145</p> <p>1 CCRO involved may still have no independent recollection 2 of it; is that correct? 3 A I don't know that. Could be correct, yes, but 4 again see I don't know -- I have been to the American 5 Airlines SOC before on a tour kind of thing because we 6 used to visit each other's facilities to learn better 7 ways of doing things, but I don't recall -- We didn't go 8 into that kind of detail. So I don't know exactly what 9 they do. 10 Q Any other things that you believe the SOC or 11 CCRO could have done besides call corporate security? 12 A I think that would have helped. 13 Q Anything else that would have helped? 14 A Not that comes to mind. 15 Q The last point that you make is that the SOC 16 should have advised the captain to call the CCRO for 17 guidance had he not already done so. 18 Is there anything in the record that indicates 19 that the captain did not contact CCRO? 20 A Not that I saw, but there is also nothing to 21 indicate that he did so that is why I said that. My 22 belief again is that the captain, this is true, the 23 captain is ultimately in charge. The captain does make 24 the decision and the role of headquarters, staff, et 25 cetera, is to support the captain.</p>

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1 Q Directing your attention to the fifth item on
2 your conclusions and opinions which reads the refusal to
3 allow Mr. Cerqueira to travel on American Airlines after
4 he was questioned was not justified.

5 What is the basis for that contention?

6 A I didn't see from reviewing the materials that
7 he presented a threat. I don't know why he wasn't
8 booked on the next flight.

9 Q Are you aware of the fact that there was a
10 passenger who indicated she saw one of the three removed
11 passengers have a box cutter taken from him in security?

12 A I read that, yes.

13 Q And in light of that allegation and the fact
14 that the TSA took it seriously enough to have everyone
15 on the plane rescreened and all the baggage rechecked,
16 is there a basis for a reasonable person to decide that
17 perhaps the situation required further investigation on
18 the part of American before Mr. Cerqueira could fly
19 again?

20 A Well, I read the reports regarding the box
21 cutter and it was, you know, an figment of somebody's
22 imagination, and that is what I'm talking about, these
23 things getting a life of their own. That is why they
24 are so incredibly dangerous. People say things in good
25 faith. I don't think that person that reported the box

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1 cutter, who knows why. Again from reading it I don't
2 see any indication. It's just one of those things that
3 happens, but he was able to book on another carrier the
4 next day and I see no reason why he couldn't have
5 booked -- been rebooked on American.

6 Q Is there any indication that he couldn't have
7 rebooked on American the next day?

8 A Well, I believe that American when he came up
9 to the ticket counter should have made it clear to him
10 what his options were, put it that way. I don't think
11 he was -- As I recall, he was not told we would be glad
12 to -- how about the flight at 8:00 o'clock.

13 Q So that is a customer service issue, then,
14 though, is that not?

15 A Sure, yes. I'm not sure what you meant by
16 that.

17 Customer service handles that sort of thing,
18 sure. You mean as opposed to the GSC? I don't know
19 where you're going with that.

20 Q Well, is it fair to say that booking and making
21 travel arrangements is a function of the customer
22 service representatives?

23 A Right, unless -- The only caveat would be
24 unless they were told not to book him by the SOC.

25 Q And the fact that the customer service

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1 representatives are the ones who make those arrangements
2 puts them in the position to explain what the options
3 are; is that correct?

4 A That's correct.

5 Q And the fact that they did not explain the
6 options, at least based on the records you have
7 reviewed, is a function of customer service; is that
8 correct?

9 A Yes.

10 Q In the conclusion section of your report you
11 indicate that the breakdown in communication between the
12 inflight security coordinator and the ground security
13 coordinator and the lack of agreed upon definite chain
14 of command led to an incident that was not called for by
15 the circumstances.

16 What is the basis for your conclusion that
17 there was a lack of an agreed upon definite chain of
18 command?

19 A There was some -- I think there was some
20 confusion as to the handing off of the airplane from the
21 GSC to the inflight back to the GSC. It seemed like
22 there was -- It was bouncing back and forth, and I think
23 it goes back earlier to what I said that the -- I don't
24 think the GSC's were involved soon enough to help
25 diffuse the situation.

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1 Q Anything else that supports your contention
2 that there was a lack of agreed upon definite chain of
3 command?

4 A It was unclear again from reading the
5 depositions as to exactly who in the SOC did what, what
6 did the captain do, what did the GSC do. Nobody seemed
7 to have a clear understanding of who was doing what in
8 the sequence of events that took place. There was no
9 incident commander, for lack of a better term.

10 I think after everything had been concluded I
11 think he should have been -- American Airlines should
12 have rebooked him, simple as that. I will put it
13 another way, I don't see any reason why they should not
14 have rebooked him.

15 Q But you're not aware of what information the
16 SOC was considering at the time that the decision
17 regarding rebooking was made, are you?

18 A All I know is what I have read in the
19 depositions.

20 Q Do you recall giving a quote to the Washington
21 Post on or about January 3rd of 2004 in which you
22 indicated that every time you cancel flights everyone
23 indicates a win for the other side. I don't think
24 cancelling flights and rescreening of passengers builds
25 confidence. It does the opposite.

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<p style="text-align: right;">Page 150</p> <p>1 A Who was that by, Sara Booh. I don't recall who 2 the reporter was. 3 Q It's from an article in the Washington Post on 4 January 3rd. 5 A I do hundreds of these. I agree with that. 6 Q Why do you say that cancelling flights and 7 rescreening passengers does the opposite of building 8 confidence? 9 A I think it puts fear in people. I don't think 10 the traveling public is -- gains confidence by seeing 11 that sort of thing happen. 12 If you're in an airport and you see all the 13 bags unloaded and lined up next to the airplane I don't 14 think that is reassuring to people. 15 Q Is there -- 16 A I'm not saying you don't always have to do it. 17 What I'm trying -- what I was trying to get across there 18 is that it has to be carefully -- It shouldn't happen as 19 much as it does. 20 Q In the post 9/11 world do you have the sense 21 that airlines are erring on the side of being cautious 22 as opposed to taking some of the measured steps you have 23 discussed? 24 A I believe that post 9/11 the airlines flying 25 U. S. flags were initially over cautious and as time</p>	<p style="text-align: right;">Page 152</p> <p>1 and reading and talking with people still in the 2 industry, I believe that right after 9/11 I believe 3 there was a tendency to way, way, way overreact on 4 things, like in anything, and I think as time progresses 5 we're back -- Everything is always doing this. I think 6 we're back to a more balanced approach. I think that 7 is -- I don't know how else to say it. 8 Q Would you equate where we are on the scale of 9 balance to a pre 9/11 condition as of today's date in 10 2006? 11 A I would say that my impression is that we're 12 still probably one or two notches higher than maybe we 13 should be and it will take another year or two and no 14 incidents to bring it down. 15 Are we safer today than we were pre 9/11? Is 16 post safer than pre, sure it is for a whole bunch of 17 reasons. Nothing -- I mean, no one thing. I can name 18 five or six things that make it a little bit better, not 19 a lot better, but some better and it's an evolving 20 process. 21 Q Are you familiar with a study that was 22 conducted by some MIT students on the CAPPS system? 23 A Sure. 24 Q Did you, in fact, provide an interview to the 25 Osgood File on CBS Radio Network with regard to that</p>
<p style="text-align: right;">Page 151</p> <p>1 progresses since 9/11 since things have sort of sorted 2 out to a more realistic level, there is no easy answer 3 to that because the TSA was formed and when they formed 4 TSA a lot of what the airlines had done over the years 5 to make the system better, the new leadership of TSA 6 literally threw out. 7 So for example the checkpoint operations guide 8 that helped clarify how things would be done at all 9 airports, they say well, the FAA did it no good. 10 Literally that is what happened. 11 So you had mass confusion, all of this has been 12 documented by the GAO and others, and what happened it 13 took a good year, fifteen months for that to kind of 14 start settling out a bit and it's still in the process. 15 There is a lot of lip service to the fact that we're 16 doing -- the TSA, we're doing this and that for 17 security. That is not true. The real issue is that 18 we're still trying to sort the whole process out. 19 People in the industry know that, airline people know 20 that. 21 Q Is it fair to say that because the TSA is still 22 trying to sort these things out, airlines need to take 23 more steps than they might have had to take in the past 24 to accomplish the same goals? 25 A Well, I can say that again from my observations</p>	<p style="text-align: right;">Page 153</p> <p>1 subject? 2 A Yes. 3 Q Did you ever obtain results in working with an 4 independent statistician to determine how many tickets a 5 terrorist would need to purchase and routes they would 6 need to fly to determine their CAPPS score? 7 A No, I did not, although I disagreed with 8 their -- With the findings of -- What was it called? I 9 can't think of the name of that study. 10 I'm familiar with it, sure, because he said 11 CAPPS was worse than chance. 12 Q Did you -- 13 A My response to that would be if what he says is 14 true why was it that CAPPS identified nine or ten of the 15 hijackers. I think that speaks for itself. 16 Q Do you know whether CAPPS is more complex than 17 the MIT grad students asserted in their study, without 18 disclosing anything that is subject to TSA? 19 A It's been a while since I have read that. Who 20 wrote that thing? I can't remember his name. 21 Q The study was by two students, Samid Chucrabody 22 and Armbrose? 23 A When that report first came out I read it, of 24 course, and I track all that stuff and they had some 25 major misconceptions of the mechanics of CAPPS and so</p>

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1 I -- I'm not a mathematician. So I don't know about
2 their mathematical formulas to say it's no better or
3 worse than chance, but when I read how they did the
4 study and what it was based upon and what they perceived
5 CAPPS to be, several key issues were totally incorrect.

6 So I don't think if you plug the numbers into
7 their formula I don't think the results are what those
8 two guys think they are. That got a lot of press for a
9 while and then kind of died.

10 Q Do you remember giving an interview or quote to
11 Air Safety Week in an article entitled One Year Later
12 The Shaky State of Security, September 16th, 2002?

13 A No, but go ahead.

14 Q Well, let me show you what has been marked as
15 Exhibit 21 to your deposition.

16 A Okay.

17 Q At the time you provided that quote did you
18 believe that the government was failing to take the
19 steps necessary to protect the security of airline
20 passengers and aircraft?

21 A Yes.

22 Q Do you still hold that opinion today?

23 A Yes.

24 Q Do you believe that the government's failures
25 place a greater burden on the airlines to protect

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1 passenger safety and aircraft safety?

2 A Yes.

3 Q And in what ways does it create a greater
4 burden on the airlines?

5 A It's so complex it's really hard to nail it
6 right down.

7 Prior to 9/11 the airlines, of course, were
8 responsible for screening. 9/11 happened. It had
9 nothing to do with screening. It had to do with the
10 policies and procedures in place of the FAA, I believe.
11 I mean, I think that will be shown, if I live long
12 enough for it to go to trial.

13 When the TSA took over it totally took the
14 airlines out of the security business, which of course
15 is what the people wanted to do, so they succeeded. So
16 we now have the TSA.

17 They are responsible. The TSA is responsible
18 for providing, for lack of a better term, a clean
19 product that comes onto the American Airlines flight.
20 The shortcoming of that whole system is that they are
21 not using -- We have been saying this since the mid
22 '90s, but it was just brought forward again by the
23 incidents in London, all of us in the field have been
24 finding fault for years for the TSA's lack of research
25 and development. I was intimately involved with the

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1 Ramsey thing out of Manila. Nothing was ever done.

2 It's a double edge sword because the airlines
3 got rid of security and have to accept the product
4 delivered by the TSA, and at the same time I'm certain
5 if you honestly talk to them they are not particularly
6 impressed with the results, which means there would be a
7 heightened -- If I was still at Northwest, I would be
8 concerned because I know that things can be a lot better
9 than they are, not that they haven't improved to degree,
10 but they could be better.

11 So yes, that puts the onus on the carriers to
12 say what can we do, but I don't want to be backed in the
13 corner in that to do the job -- for the airlines to do
14 the job in a security sense better, the airlines I don't
15 think, from what I am aware of and what I have observed,
16 have done a very good job in providing the security
17 training to their staffs is adequate.

18 They have provided additional training, some of
19 which I'm aware of, but much of it is good in theory but
20 in practice it is inadequate in time and depth. It's
21 sort of like giving a one hour class to a flight
22 attendant on what to do if you're attacked on an
23 airplane. I went through five months of one hour,
24 two hours a day hand-to-hand combat training in my LAPD
25 academy days. I didn't have anything broken, broken

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1 arms, noses, all kinds of problems learning how to
2 fight.

3 To give a one hour class you can say look at
4 what I have done, but in reality the only person that
5 benefits is the person that sold that baloney to the
6 airline or the union whoever bought and paid for that.

7 In other words, you either do it right or don't
8 do it. I think that is the terrible dilemma of the
9 airlines today. I mean, they are all struggling. So to
10 come up with additional time, which is money, to train
11 people adequately is pretty darn difficult.

12 Q Do you have a sense as to whether or not the
13 dilemma that you have just described is known to the
14 rank and file members of airlines?

15 A Oh, yes.

16 I have many, many friends who are very senior
17 captains and retired and flight attendants, 30, 35 years
18 that are good friends that I'm in touch with and nobody
19 in my experience is very happy with it.

20 Q Do you have a sense as to whether that affects
21 their decision making process?

22 A Yes, it does, which take us for a loop. I
23 think back to adequate training.

24 MS. MARIANI: Let's take a 5-minute break. I
25 will look over my notes and I think I may be done.

40 (Pages 154 to 157)

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<p style="text-align: right;">Page 158</p> <p>1 MR. KIRKPATRICK: Great. 2 (A recess was taken.) 3 MS. MARIANI: I have no further questions at 4 this time. 5 American Airlines does, however, reserve its 6 right to reopen the deposition should Mr. Laird disclose 7 any further opinions or further bases for his testimony 8 in the future. 9 Mr. Kirkpatrick. 10 MR. KIRKPATRICK: I will reserve my questions 11 for the time of trial. 12 (The deposition was adjourned at 1:30 p.m.) 13 14 15 16 DOUGLAS R. LAIRD 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 160</p> <p>1 STATE OF NEVADA) 2) ss. 3 COUNTY OF WASHOE) 4 5 I, JANET MENGES, a Certified Court Reporter and 6 Notary Public in and for the County of Washoe, State of 7 Nevada, do hereby certify: 8 That on Tuesday, the 10th day of October, 9 2006, I reported the deposition of Douglas Laird in the 10 matter entitled herein; that said witness was duly sworn 11 by me; that before the proceedings completion, the 12 reading and signing of the deposition has been requested 13 by the deponent or party; 14 That the foregoing transcript is a true and 15 correct transcript of the stenographic notes of testimony 16 taken by me in the above-captioned matter to the best of 17 my knowledge, skill and ability. 18 I further certify that I am not an attorney or 19 counsel for any of the parties, nor a relative or employee 20 of any attorney or counsel connected with the action, nor 21 financially interested in the action. 22 23 24 JANET MENGES, CCR #206, RPR, CP 25 California CCR # 5785</p>
<p style="text-align: right;">Page 159</p> <p>1 2 3 I, DOUGLAS R. LAIRD, hereby declare under penalty 4 of perjury that I have read the foregoing pages 1 - 158; 5 that any changes made herein were made and initialed by 6 me; that I have hereunto affixed my signature. 7 8 Dated: 9 10 11 12 13 DOUGLAS R. LAIRD 14 15 (If signed before a notary public, have notary public 16 fill out page 161.) 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 161</p> <p>1 STATE OF NEVADA) 2) ss. 3 COUNTY OF WASHOE) 4 5 I, _____, a notary 6 public in and for the County of _____ 7 _____, do hereby certify: 8 That on the _____ day of 9 _____, 2006, before me 10 personally appeared the witness whose deposition appears 11 herein; 12 That the deposition was read to or by the 13 witness; 14 That any changes in form or in substance desired 15 by the witness were entered upon the deposition by the 16 witness; 17 That the witness thereupon signed the deposition 18 under penalty of perjury. 19 DATED: At _____ this 20 day of _____, 2006. 21 22 23 24 25</p>

41 (Pages 158 to 161)

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1 OFFICER'S ACTIONS RE SIGNING OF DEPOSITION
2 PURSUANT TO NEVADA RULES OF CIVIL PROCEDURE
3
4 DATE
5 LETTER SENT TO WITNESS
6
7 11/2/06 AT DIRECTION OF COUNSEL ORIGINAL
8 WAS SENT TO MR. KIRKPATRICK
9
10 WITNESS SIGNED DEPOSITION
11
12 ORIGINAL SENT TO
13
14 OTHER ACTIONS
15
16
17
18
19
20
21
22
23
24
25

42 (Page 162)

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